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# Foreword

*Jannie Malan*

This is a special issue on the African Union (AU), published in the year when our continental Union is celebrating ten years of its existence. The articles included in this issue are not focused on mere birthday praises and wishes, however. They contain frank descriptions and discussions of problems, policies and procedures. They do acknowledge improvements and successes, but they also deal with challenges and failures.

There have indeed been successes and failures. This is very understandable, since 'unity' can never be just a simple, straightforward ideal. It is always challenged and complicated by the realities of diversity and disunity.

*Unity*, and particularly *African* unity, has been the main ideal not only of the AU over one decade, but also of its predecessor, the Organisation of African Unity (OAU), over almost four decades. In fact, the name of the original Organisation proclaimed the conviction that the unity already existed. The Organisation was not established as one aspiring *for* or *towards* African Unity, but as one entrusted with guardianship *of* African Unity. In spite of such optimistic idealism, however, the Founding Fathers were very realistic about phenomena and forebodings of disunity. They headed their list of purposes with promoting unity and solidarity, and coordinating cooperation (OAU 1963: art. II), but they also established a Commission of Mediation,



Conciliation and Arbitration (OAU 1963: art. XIX). Mainly due to observance of the principle of non-interference in internal affairs (OAU 1963: art. III), however, it had to be admitted thirty years later that ‘the Commission has been virtually dormant since its establishment’ (OAU 1993:5). Then, in 1993, the Mechanism for Conflict Prevention, Management and Resolution was established. This signalled ‘Africa’s determination to solve its own problems’ and its commitment ‘to work together towards the peaceful and speedy resolution of all conflicts on the continent’ (OAU 1993:2). This Mechanism brought about more action, but was still bound by the principle of non-interference. It was equipped with an Early Warning System and was especially focused on conflict prevention.

From its establishment in 2002, the AU seemed to have more clout to intervene when conflict threatened or happened. In its Constitutive Act the principle of non-interference in internal affairs was applied to member states among themselves, but the immediately following principle was ‘The right of the Union to intervene in a Member State ... in respect of grave circumstances, namely war crimes, genocide and crimes against humanity’ (AU 2000: art. 4(g) and (h)). A further principle was ‘The right of Member States to request intervention from the Union in order to restore peace and security’ (AU 2000: art. 4(j)). The same principles were endorsed in the Protocol for the establishment of the Peace and Security Council of the AU (AU 2002: art. 4(f), (j) and (k)).

The shift of focus from prevention to intervention inevitably brought about a change in the reactions from member states. In a prevention-oriented organisation sufficient consensus may usually be attained; but in an intervention-empowered union, differences of opinion and/or commitment can often be expected. Several cases in which AU intervention was challenged by differences among member states and/or different approaches from abroad are discussed in the articles of this issue.

We are sure, therefore, that the contents of this special issue will not only present useful case study information, but will also prompt our thinking about unity – and diversity. After all, whenever unity is envisaged between

individuals, groups, countries, regions or continents, the choice between diversity-*overruling* unity and diversity-*friendly* unity is of crucial importance. And on a continent where ownership of a talking-things-out approach is claimed, differing opinions should never be disregarded. Having said that, however, we have to bear in mind that our continental union and all of us are so often caught up in an urgent situation where there is simply no opportunity for time-demanding talks before pivotal decisions have to be risked.

Being concerned about and committed to unity – at all levels, from local to continental (and global?) – is clearly a difficult and demanding undertaking about which volumes can be written. We know that what is published in this issue is only a small contribution to a vast field of overwhelming challenges and far-reaching opportunities, but we publicise it as relevant research and recommendations. We trust that it will equip and inspire readers to fulfil unifying roles, whether in modest micro or major macro capacities.

For the next decade and the further future, we wish to express our gratitude for having a Union promoting continent-wide unity, and the hope that our Union will attain and maintain as much African unity as achievable. We wish our Union of 54 member states all the necessary understanding, compromising and cooperating towards acknowledging both one-ness and many-ness, both inclusiveness and independence. We trust that, precisely in Africa, a vibrant unity should be achievable – a unity that is not imposed, but talked out; not dictated, but desired. Such a unity will however require an African solution to the global problem of self-centred and/or own-group-centred leaders (and followers). But if African solutions in this regard – both bottom-up and top-down – could indeed be developed and implemented, wouldn't that be a remarkable thing the African village could show-case to the global village?

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# The quest for *Pax Africana*: The case of the African Union's peace and security regime

Solomon A. Dersso\*

## Abstract

In 1967 Ali Mazrui offered in his seminal work, *Towards a Pax Africana*, the earliest analysis on the need for Africans to assume responsibility for the maintenance of peace and security on the continent. Arguably, the most comprehensive effort towards achieving this ideal was made with the establishment of the African Peace and Security Architecture (APSA) in the context of the transformation of the Organisation of African Unity (OAU) to the African Union (AU). As the institutions and processes constituting the APSA are coming into operation, various questions are raised. Despite the fact that the political ideal of 'African solutions to African problems' underlying the APSA is routinely used in the literature and policy circles, questions still remain on what it actually entails and how it informs and shapes African policy making on peace and security issues affecting the continent. Most importantly, there is also the question of how far this ideal embodied in the APSA provides Africa with the means for

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\* Dr Solomon Dersso is senior researcher with the Institute for Security Studies and an adjunct Professor of Human Rights Law with the Centre for Human Rights and School of Law, Addis Ababa University. He is a member of the Editorial Board of the *Journal of African Union Studies*. Currently he serves as legal advisor to the Experts' Panel on the Settlement of the Border Disputes between Sudan and South Sudan established under the AU High-Level Implementation Panel on Sudan, otherwise known as the Mbeki Panel.

achieving *Pax Africana*. In attempting to address these and related questions, this contribution will offer an analysis of the ideal of 'African solutions to African problems' within the framework of APSA and its role and limitations in Africa's quest for maintaining its peace and security.

## Introduction

Africa's is a history of a struggle for self-determination. None other than the quest for achieving control over our politics, culture, geography and economics can best capture the essence of the political history of our continent. In the different historical epochs, this quest was expressed in different forms. Apart from rejection of slavery and racial discrimination and inequality, this quest in its recent past took the form of the struggle for freedom from the bonds of colonialism and racial domination. In the aftermath of the end of the Cold War and the onset of a multipolar world order in the 21<sup>st</sup> century, this struggle is best expressed in Africa's quest for *Pax Africana*, a peace 'that is protected and maintained by Africa herself' (Mazrui 1967:203).

Today, *Pax Africana* is very much associated with and is given expression through the pan-African political ideal of 'African solutions to African problems'. A very important avenue through which member states of the AU have sought to give institutional expression to this ideal is the African Peace and Security Architecture, a comprehensive peace and security regime established under the Protocol establishing the Peace and Security Council of the AU (AU 2002).

Although this powerful and admittedly ambitious political ideal has achieved prominence in the discourse on security on the continent, there has been very little systematic analysis of its meaning and application in the continent's endeavours for resolving the challenges of peace and security.<sup>1</sup> In this context issues that are worth examining include the steps taken to institutionalise this

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1 Romain Esmenjaud and Benedikt Franke (2009) observed in this regard that '[d]espite their virtual omnipresence in the proliferating literature on peace and security in Africa, the concepts of African Ownership and Africanisation have not been properly defined thus far'.

ideal and the progress made thus far to realise this. Challenges that need to be overcome in Africa's renewed effort to achieve *Pax Africana* also form part of the analysis in this article.

## **Towards 'African solutions to African problems'**

It has already been mentioned that Africa's endeavour to be in control of its destiny has a long history and occupies a central place in African political thought, past and present. One of the manifestations of this in present-day Africa is the rise to prominence of the political ideal of 'African solutions to African problems' in the discourse on peace and security in Africa. To appreciate the profound importance of this political ideal, it is important to understand the immediate historical and political factors that led to its genesis.

While it is clear that the political ideal of 'African solutions to African problems' has its roots in the Pan-African movement (Esmenjaud and Franke 2009),<sup>2</sup> its immediate origins are linked to two related developments. The first one is the end of the Cold War and the emergence of a new global order in which Africa 'lost' its geo-strategic value and was called upon to deal by itself with the mess that the legacies of colonialism and the Cold War left.<sup>3</sup> The second one is the change in the nature of conflicts, which led to the recognition that Africa needs to develop its own means for overcoming the challenges of peace and security facing it.

## **The end of the Cold War and its impact**

The demise of the Cold War has had a profound impact on the political landscape of the continent. This was directly related to the nature of what Thabo Mbeki called the 'Architecture of Cold War Africa'. This was the dominant global framework in which Africa became a major battleground in the ideological and geo-strategic struggle between two camps, the capitalist camp led by the United States of America (US) and the Socialist camp led by the Soviet Union. As Mbeki explained, what led to this unfortunate turn of events was the fear of

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2 See Mathews 2008.

3 See Mbeki 2012.

countries of the West that independent Africa was ideologically susceptible to join the socialist camp and their determination to ‘intervene decisively in Africa to realise the objective, in their view, to achieve the strategic objective to “keep Africa within their sphere of influence” and therefore, as much as possible, deny the Soviet Union any possibility to place Africa “within its own sphere of influence”’ (Mbeki 2012).

Whereas Africa was a victim of violent enslavement and subjugation under colonialism, the Cold War turned her into an object of manipulation, a theatre in which countries in the West prosecuted their ideological and geo-strategic battles against the Soviet. To state the obvious, this did not bode well to the process of independence that just began with the forcible removal of colonial powers. It played a major part in obstructing the object of realising the fruits of Nkrumah’s ‘political kingdom.’<sup>4</sup> Mbeki (2012) summed up the disaster that the Cold War spelled on Africa thus:

... this resulted in such negative developments as the corruption of the African independence project through the establishment of the system of neo-colonialism, the overthrow of governments which resisted this, support for the white minority and colonial regimes in Southern Africa, seen as dependable anti-communist and anti-Soviet allies, the assassination of such leaders as Patrice Lumumba, Thomas Sankara and Eduardo Mondlane, sponsorship of such instrumentalities as UNITA in Angola and RENAMO in Moçambique, support for predatory and client regimes such as those of Mobutu in the then Zaire, and of Houphouët-Boigny in Côte d’Ivoire ...

As the Cold War fuelled some of the longest conflicts in Africa and supported corrupt and authoritarian governments, the hope of a self-determining Africa that the end of direct European colonial rule brought was turned into a nightmare. As it made the fragility of the newly independent states and the various challenges facing them to serve the purposes of the super power struggle,

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4 Kwame Nkrumah of Ghana famously advised colonial people: ‘Seek ye first the political kingdom, and all else shall be added unto you’.

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the Cold War frustrated the ability of Africans to independently shape the course of political developments in their countries and on the continent.

While on the one hand the fall of the Berlin Wall in 1989, epitomising the end of the Cold War, marked the closure of the destructive super power interventions and support for corrupt authoritarian systems in Africa, it also simultaneously left Africa in 'the cold'. With the sudden withdrawal of western countries, Africa received the treatment of a toy that was used and thrown away. It was in the following terms that Steven A. Holmes portrayed this state of affairs, 'Having been carved up and colonized by European powers and turned into pawns, knights and rooks on a cold war chessboard by the superpowers, Africa now faces a devastating new problem: indifference'.<sup>5</sup>

Africa was left on its own to deal with all the distortions and mess that the Cold War rivalry left behind in the wake of its demise. As former Secretary-General of the UN, Kofi Annan, put it, 'Across Africa, undemocratic and oppressive regimes were supported and sustained by the competing super-Powers in the name of their broader goals but, when the cold war ended, Africa was suddenly left to fend for itself' (Annan 1998: para. 11).

Two major UN peacekeeping failures in the early 1990s reinforced the disengagement of the West from Africa. The first was Somalia.<sup>6</sup> The other and most disappointing was the failure of the UN mission to halt the 1994 genocide in Rwanda.<sup>7</sup>

Apart from leaving Africa on its own to pick up the pieces, the coincidence of the disengagement from and the neglect of Africa with the deepening of the globalisation process carried the danger of the further marginalisation of Africa. Adekeye Adebajo (2003:3) observed thus, '[w]here Africa had once feared intervention during the cold war, marginalization had now become a greater concern in the post-apartheid era. Attention, aid, and investment shifted to the

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5 Holmes 1993, as quoted in Mbeki 2012.

6 See Murphy 2007:48–63.

7 See United Nations 1999.



emerging democracies of Eastern Europe, and resources were later diverted from African conflicts to reconstruction efforts in Afghanistan and Iraq by 2003<sup>8</sup>.

The experience vividly pointed out two important points. First, in the global power calculus of the time Africa was far less significant than other parts of the globe such as the Middle East and Asia to Western hegemonic powers. While former colonial powers, particularly France, were driven by the desire to maintain their hegemony over their former colonial territories, the major motivation for US incursion into Africa was the threat of Soviet expansion.<sup>8</sup> The part of Africa that was of some significant geo-strategic importance for western powers was the Horn of Africa. This was due to its proximity to the commercial sea routes of the Red Sea and the Gulf of Aden and to the Middle East (Clapham 1996:139). Second, African countries individually remained weak both politically and economically. Their capacity to defend themselves and protect their interests in dealing with global hegemonic powers was recognisably limited. This made them vulnerable to easy external intervention. Thus, it seemed that Western powers understood that they could easily intervene in Africa whenever they need to, and they did not need to maintain presence in Africa.

All of these made it unequivocally clear for Africa that it needs to stand for itself. The time was ripe for Africa to heed the prophetic message of Kwame Nkrumah of Ghana on the urgency of African unity: 'Divided we are weak; United, Africa could become one of the greatest forces for good in the world' (Nkrumah 1961:xii). Indeed, as early as 1990, member states of the OAU started to express the need to rededicate themselves for pursuing the objective of African unity more vigorously. Accordingly, in the 1990 OAU declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, the heads of state and government of OAU member states stated:

We reaffirm our commitment to revive the ideals of Pan-Africanism and commit ourselves, individually and collectively, on behalf of our governments and peoples to maintain and strengthen our unity and solidarity and to pool our resources and wisdom in order to face the challenges of the decade of the 1990s and beyond, change the bleak socio-economic prospects of our

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8 See Clapham 1996.

continent and guarantee a better life for all peoples and future generations yet unborn. These objectives are well within our capabilities. We, therefore, pledge to apply ourselves fully to the achievement of these objectives (OAU 1990: para. 12).

This agenda was very powerfully pursued through the complementary initiatives and leadership of in particular South Africa's Presidents Nelson Mandela and Thabo Mbeki and Nigeria's President Olusegun Obasanjo.<sup>9</sup> Eventually, this culminated in the launching of the next phase of pan-Africanism in the form of the AU.

### **The change in the nature of conflicts**

For Africa, the end of the Cold War did not mark the onset of a peaceful and stable era. The demise of the super power rivalry, which marked the dawn of a new world order famously characterised by Francis Fukuyama (1992) as the end of history and the triumph of liberalism, dramatically changed the peace and security dynamics both of Africa and the world. Unlike the Cold War period, in which States have been the most dominant of actors and, as such, international relations have been defined in terms mostly of threats arising from state actions, the post-Cold War period saw the rise to prominence of new actors and insecurity arising more from new threats, other than inter-state aggression. As the Commission on Global Governance observed, people in many areas of the world feel insecure more than ever, not in most cases due to external aggression but in spite of its decrease (Commission on Global Governance 1995:79). The sources of such insecurity identified by the Commission include 'extreme economic deprivation, the proliferation of conventional small arms, the terrorising of civilian populations by domestic factions, and gross violations of human rights' (Commission on Global Governance 1995:79). Other factors that have been of particular concern in the African context also include ethnic strife, civil wars, and the collapse or failure of states.

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9 On the role of these individuals see Abegunrin, 2009:152–161 (in chapter 7, From Organization of African Unity to African Union).

The major forms of conflicts in this period have been those fought within the boundaries of states – intra-state conflicts. These are conflicts that pit one section of the population of a state against another or against the state itself. Many of the conflicts that Africa witnessed during this period have accordingly been conflicts of this kind. One of the characteristics of these conflicts is that they are undertaken by non-state actors and hence do not fall within the framework of international armed conflicts which are traditionally recognised as major sources of threat to international security.<sup>10</sup> A further characteristic of these conflicts ‘is the collapse of state institutions, especially the police and judiciary, with resulting paralysis of governance, a breakdown of law and order, and general banditry and chaos’. In terms of their impact however, these conflicts have tended to be more brutal to human beings than most conflicts between states due to ‘modern technology and communications’ and ‘the proliferation of cheap, highly destructive weapons which find their way into the hands, among others, of child soldiers’ (International Commission on Intervention and State Sovereignty 2001:4).

The immediate post-Cold War period became one of the darkest, bloodiest and bleakest of times for Africa. Outside of the colonial era, at no other time has violence been more horrific and tragic than during this period. It was as though Africa had gone ‘from the frying pan into the fire’ (Mutua 1995:505, 506). The fall of Siad Barre in 1990 resulted in the collapse of the Somalia state. This was accompanied by internecine violence between rival armed factions that destroyed the infrastructure and livelihood of most parts of the country leaving hundreds of thousands to death and starvation (Lewis 2008:71, 78). After years of authoritarian rule under Mobutu, the Democratic Republic of the Congo (DRC), formerly Zaire, descended into one of Africa’s brutal civil wars in which millions of people perished.<sup>11</sup> The civil war that ensued following the rebellion that Charles Taylor waged against Samuel Doe’s government led to the implosion

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10 As noted by Boutros Boutros-Ghali, these conflicts ‘are usually fought not only by regular armies but also by militias and armed civilians with little discipline and with ill-defined chains of command’ (quoted in Hoffman and Weiss 2006:89).

11 For an acclaimed, comprehensive and rich, albeit journalistic, account of the crisis of DRC, see Stearns 2011.

of Liberia and the descent of its people into an abyss of horror.<sup>12</sup> The multiple civil wars fought in the country from 1989 to 2003 were full of violence in which every act of brutality was committed.<sup>13</sup> Sierra Leone's civil war unleashed as much horror on the people of the country as in Liberia. In its recent finding against Charles Taylor, the Special Tribunal of Sierra Leone observed that the operational strategy of the armed groups involved in the civil war

... was characterised by a campaign of crimes against the Sierra Leonean civilian population, including murders, rapes, sexual slavery, looting, abductions, forced labor, conscription of child soldiers, amputations and other forms of physical violence and acts of terror. These crimes were inextricably linked to how the RUF<sup>14</sup> and AFRC<sup>15</sup> achieved their political and military objectives. In particular, under the leadership of Sam Bockarie, the RUF and AFRC pursued a policy of committing crimes in order to achieve military gains at any civilian cost, and also politically in order to attract the attention of the international community and to heighten their negotiating stance with the Sierra Leonean government. That their operations were given titles such as 'Operation No Living Thing', and 'Operation Spare No Soul' made explicit the intent of the RUF and AFRC to wage a campaign of terror against civilians as part of their war strategy (Special Court for Sierra Leone 2012: para. 150).

With the international community failing to act, it was ECOWAS<sup>16</sup> member states that assumed the responsibility of stopping the violence in Liberia and Sierra Leone.<sup>17</sup> In Somalia, although the UN deployed peacekeeping forces,

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12 At one point the situation led former Gambian President, Sir Alhaji Dauda Jawara, to describe Liberia as a 'butcher house'. See Truth and Reconciliation Commission of Liberia 2009:155.

13 Approximately 200 000 people lost their lives, one million were displaced, and 60–70% of the population suffered some form of sexual violence. See BBC News Africa 2012.

14 Revolutionary United Front.

15 Armed Forces Revolutionary Council.

16 Economic Community of West African States.

17 See Adebajo 2010:37–40.

it left the country in conditions that were not better than when it intervened (Lewis 2008:77–81).

However, it was the 1994 Rwandan genocide that shook Africa to its core. In a period of one hundred days, close to 800 000 Rwandese, almost one tenth of the population of the country, were mercilessly massacred.<sup>18</sup> The plan to annihilate members of the Tutsi ethnic group specifically targeted women and children ‘with ghoulish zeal and unimaginable cruelty’ (OAU 2000a: section 16.4). The horrors of Rwanda stood out due to the massive involvement of ordinary people in the commission of the crimes and the nature of the weapons used to perpetrate the massacre.

The deep sense of agony and helplessness many in Africa felt was made worse by the failure of the international community to avoid what the OAU’s International Panel of Eminent Personalities called the ‘preventable genocide’ (OAU 2000a). None of those who scrambled for the domination of countries of the continent were there at the continent’s particular time of need. The failure of the UN, the body tasked with the responsibility of maintaining international peace and security, underscored the level of Africa’s marginality to the international system. In its report, the Independent Inquiry into the Actions of the UN during the 1994 Genocide in Rwanda thus held that ‘the international community did not prevent the genocide, nor did it stop the killing once it had begun’ (UN 1999: para. 2). This was made the more disappointing by the fact that the slaughter took place in the presence of a UN Mission in Rwanda.

It became clear that Africa need not expect others to come to its rescue and that it should stand for itself more than ever before. At the OAU summit in July 1994 in Tunis, President Nelson Mandela of South Africa expressed the disappointment of the people of the continent in the international community and urged member states to build an African means for responding to the peace and security challenges of the continent: Rwanda stands out as a stern and severe rebuke to all of us for having failed to address Africa’s security problems. As a result of that, a terrible slaughter of the innocent has taken place and is taking place in front of our very eyes.

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18 See UN 1999: para. 1.

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We know it is a matter of fact that we must have it in ourselves as Africans to change all this. We must, in action assert our will to do so.<sup>19</sup>

Consensus was reached on two interrelated fundamental views. The first was the widespread belief that the international community lacked the required will and commitment to address the peace and security challenges of the continent.<sup>20</sup> The other was the view that member states of the OAU should bring together their efforts and assume responsibility to be able to act against similar kinds of violence on the continent. Ambassador Said Djinnit, the AU's first Commissioner for Peace and Security, put this in profound terms as follows:

No more, never again. Africans cannot watch the tragedies developing in the continent and say it is the UN's responsibility or somebody else's responsibility. We have moved from the concept of non-interference to non-indifference. We cannot as Africans remain indifferent to the tragedy of our people.<sup>21</sup>

The imperative of reviving the objectives of pan-Africanism and pursuing a high level of regional integration became more urgent than ever before. Africa responded by resorting to the pan-African political ideal of 'African solutions to African problems'.

### **African solutions to African problems**

The political ideal of 'African solutions to African problems' is essentially an issue of self-determination. It seeks to bestow Africa, as a matter of principle, the lead role or ownership in the endeavour to prevent, manage and resolve conflicts on the continent. This has two dimensions. The first and most important of

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19 Nelson Mandela as quoted in African Rights 1995:1138.

20 In a Declaration they adopted in 2000 (OAU 2000c: preambular para. 6), OAU Heads of State and Government in this regard observed: 'the fact that the international community has not always accorded due attention to conflict management in Africa, as it has consistently done in other regions, and that the efforts exerted by Africans themselves in the area of peacekeeping, as provided for under Chapter VII of the UN Charter, are not given adequate financial and logistical support'.

21 Ambassador Said Djinnit, AU Commissioner for Peace and Security, 28 June 2004, Addis Ababa, as quoted in Powell 2005:4.

these is the control that Africans exercise over the analysis, understanding and definition of the peace and security challenges facing the continent. For far too long, as Africans, we have had very little say over the definition of our challenges. Much of the mainstream knowledge that is produced on Africa has been neither by Africans nor has it been from within Africa. This being knowledge produced based on epistemology and using methodologies developed elsewhere, it had little space for alternative and indigenous frameworks and approaches. One of the ambitions of 'African solutions to African problems' is therefore to reverse this and anchor the analysis and understanding of the peace and security challenges in Africa on the needs and particular circumstances of those directly affected.

Clearly, while it is necessary to be informed of the experiences of other parts of the world, efforts for resolving conflicts in Africa have little chance of success unless they are informed by the socio-cultural, historical, political and economic realities of affected societies. Significantly, the issue is not just about who undertakes the analysis and conceptualisation of the challenges in Africa. It is also, and importantly, about the participation or active involvement of the affected societies and groups in such undertakings.

The other dimension is African leadership in the formulation and implementation of solutions that are properly tailored to respond to the specific conditions and needs of those affected. Instead of treating them as objects of charity and people incapable of redeeming themselves, this acknowledges and reinforces the agency of African actors. Thus viewed, 'African solutions to African problems' is a pan-African ideal that seeks to accord Africa both ownership of and a high stake over the process for resolving the problems facing the continent.

'African solutions to African problems' has also a negative formulation that says no to uninvited external initiatives in which Africans had no meaningful part. Apart from insisting that Africans should in those terms be the masters of their fate, this ideal is thus a bold response from the continent to, and a rejection of, the often-disastrous external interference, which has dominated the political history of the continent. It therefore remains very sceptical of outside interference, however well-intended such interventions may be. As argued

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elsewhere, '[a]lthough it does not reject external involvement, by putting Africa at the centre "African solutions to African problems" attempts at limiting the nature and consequences of external actions on the continent. At the very least this is meant to avoid the recurrence of the abuse, neglect and violence that such external actions brought on the continent' (Dersso 2012).

Simultaneously, in this highly interdependent and increasingly globalising world and time, 'African solutions to African problems' does not pretend to suggest that Africans should exclusively formulate and support efforts for maintaining peace and security on the continent. It should be emphasised that this ideal is not about isolationism and closure. It fully recognises the importance and role of others in the international community. This role and responsibility of the international community is aptly summed up by former Secretary-General Kofi Annan during the 1997 ministerial debate in the Security Council on Africa:

There is a new consensus that the primary responsibility for the solution of Africa's problems rests with Africans themselves ... This new realisation also calls for a re-evaluation of the role of the international community in support of Africa's goals. It places responsibilities as much on the shoulders of governments outside Africa as on African governments. It challenges us to think precisely how best we can accompany the Africans on their path to lasting peace, stability, justice and sustainable development (UN 1997).

It should be noted that the nature of peace and security challenges facing Africa do not always originate from Africa, and the causes of these challenges are not always limited to African actions or omissions. The nature and origin of most of the structural challenges facing the continent implicate outside actors. Additionally, although Africans are the primary victims of these challenges, the impact of these challenges is not limited to Africa. While it accords a central place to the role of African actors, it does so not at the expense and to the exclusion of the international system and the role of non-African actors. As such, 'African solutions to African problems' expands on and shares the burden of the global collective security system anchored in the 1945 UN Charter.



The moral and political force driving this ideal is the deep desire in Africa to assume responsibility for overcoming the challenges facing the people of the continent. It is indeed this desire that animates both the views of the people who took the lead in championing it and the legal and political instruments through which 'African solutions to African problems' is given policy and institutional expression. At a special meeting of the UN Security Council held in September 2007, Alpha Oumar Konaré, the first chairperson of the AU Commission, in this regard stated that

... the primary responsibility for ensuring peace in Africa belongs to Africans themselves. They must shoulder that responsibility. Our partners must let Africans run their own business. [...] Africa is no longer a private hunting ground; it is no longer anyone's backyard; it is no longer a part of the Great Game; and it is no longer anyone's sphere of influence. Those are the few simple rules that will allow the continent to shoulder its responsibility and to demonstrate inter-African solidarity (Konaré 2007).

This desire for assuming greater responsibility in the maintenance of peace and security on the continent has been accompanied by commitments that member states of the AU made to contribute to conflict prevention, management and resolution in Africa. Thus, in establishing the Peace and Security Council, African states expressed their determination 'to enhance our capacity to address the scourge of conflicts on the Continent and to ensure that Africa, through the African Union, plays a central role in bringing about peace, security and stability on the Continent' (AU 2002:3).<sup>22</sup> African states reiterated this commitment in the Solemn Declaration on the Common African Defence and Security Policy (CADSP). Accordingly, they reaffirmed their 'determination to endow the Union with the requisite capacity for decision-making in order to ensure effective political-military crisis management aimed at preserving peace and strengthening security of the continent in all aspects, including the elimination of conflicts' (AU 2004: preamble).

Beyond and above redressing the inadequacies and failures of international intervention in Africa, the ideal of 'African solutions to African problems' entails

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<sup>22</sup> 16<sup>th</sup> paragraph of the Preamble.

responsibility on African actors for their failures as well. This means that African governments should assume responsibility for the challenges and problems facing the people of the continent. Seen in this light, this ideal also demands transformation of the system of governance to enable Africa to achieve full emancipation. The focus of this ideal is thus not only about violent conflicts but also the underlying factors that precipitate such conflicts. In this context, attention is drawn to the poverty, despotism, authoritarianism, human rights abuses, corruption, discrimination and related political and socio-economic ills to which people in Africa are subjected. This is indeed one of the most important issues that informed the various normative and institutional changes by which the ideal 'African solutions to African problems' is given expression within the framework of the AU.

As a manifestation of pan-Africanism, 'African solutions to African problems' is premised on the recognition that deepening the unification process of Africa is key if Africa is to achieve control over its peace and security as well as its socio-economic and political agenda.

### **The transformation from the OAU to the AU**

The most important development in Africa's effort towards translating the ideal of 'African solutions to African problems' into an institutional framework was the transformation of the OAU to the AU. The decision to establish the AU was taken in 1999. At the fourth extraordinary session of the Assembly of Heads of State and Government of the OAU held in Sirte, Libya, the Assembly adopted a declaration calling for the establishment of the AU to replace the OAU. The declaration expressly acknowledged that 'the Continental Organization needs to be revitalized in order to be able to play a more active role and continue to be relevant to the needs of our peoples and responsive to the demands of the prevailing circumstances' (OAU 1999: para. 7).

The AU took over from the OAU with the adoption of the Constitutive Act of the African Union (OAU 2000b). The entry into force of the Act on 26 May 2001 marked the birth of the AU and its inauguration in Durban in 2002, its official launch.

The transformation of the OAU to the AU is indeed a major development in the evolution towards achieving the ideals of pan-Africanism. As Murithi rightly pointed out, the AU ‘was supposed to usher Africa into a new era of continental integration, leading to a deeper unity and a resolution of its problems’ (Murithi 2008:4). Indeed, the acceleration of the unification process of Africa both to promote socio-economic development and to deal with the challenges of globalisation was the underlying motivation behind the launching of the AU.<sup>23</sup> The first objective of the AU is thus ‘to achieve greater unity and solidarity between African countries and the peoples of Africa’ (OAU 2000b:4).<sup>24</sup> Accordingly, in establishing the AU, African states expressed their determination ‘to take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively’ (OAU 2000b:3).<sup>25</sup>

More specifically, the AU was informed by the desire of member states to pull their efforts together to deal with the peace and security challenges facing the continent. This is expressed in the preamble to the Constitutive Act of the AU by the recognition of ‘the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda’ (OAU 2000b:3). Accordingly, within the framework of the AU, African states established a robust peace and security regime. This took the form of the African Peace and Security Architecture (APSA).

### **African Peace and Security Architecture as the embodiment of *Pax Africana***

The African Peace and Security Architecture (APSA) is the policy and institutional framework that the AU established as ‘an operational structure for the effective implementation of the decisions taken in the areas of conflict

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23 See OAU 2000: preamble.

24 Art. 3(a)

25 Preamble

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prevention, peace-making, peace support operations and intervention, as well as peace-building and post-conflict reconstruction' (AU 2002: para. 17). The APSA is the institutional framework through which the AU and its member states envisaged to give practical application to the ideal of 'African solutions to African problems'.

The APSA has two components to it. The first is the normative and policy component, and the second the institutional dimension.

### **Normative dimension of the APSA**

At the normative level, the ideal of 'African solutions to African problems' is anchored on two related fundamental frameworks. The first involves the redefinition of the principle of state sovereignty. The second and related framework is the commitment to an interventionist peace and security regime.

#### **Sovereignty redefined**

The principle of the sovereignty of states is the corner-stone of the Westphalian international order. Sovereignty is a legal status by virtue of which the possession by a society of an independent political authority as a state is recognised internationally. Seen in this light, sovereignty has two aspects. First, sovereignty defines the legal identity of states within the international system as equal entities and possessing the same legal capacities. Second, sovereignty signifies independent political authority over the people and territory within the jurisdiction of a state. This is associated with 'the capacity to make authoritative decisions with regard to the people and resources within the territory of a state' (International Commission on Intervention and State Sovereignty (ICISS) 2001:12). In international law, this is given institutional guarantee through the principle of non-intervention, which prohibits members of the international community from intervening in the internal affairs of a state.

Sovereignty and its corollary, the principle of non-intervention, are the most important principles on which the OAU was founded. Of the seven basic principles outlined under Article 3 of the OAU Charter, four were about the

sovereignty and territorial integrity of African states.<sup>26</sup> In the practice of the OAU, these principles were regarded as precluding the OAU or any member state from scrutinising the African state's domestic activities and therefore were scrupulously observed. The OAU has been operating within the framework of and in strict adherence to its state-centric principles of sovereignty of states and non-intervention.<sup>27</sup>

Under the Constitutive Act of the AU, the AU made a complete break from the OAU by redefining sovereignty. Unlike the OAU Charter in which sovereignty was sacrosanct and almost absolute, within the framework of the AU sovereignty is limited. This is provided for in the ground-breaking principle of the right of the AU to intervention.<sup>28</sup> The Act stipulates in Article 4(h) that the AU has the right to intervene in a member state 'pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'. It not only creates the legal basis for intervention but also imposes an obligation on the AU to intervene to prevent or stop the perpetration of such heinous international crimes anywhere on the continent.

This provision together with the emphasis on ending conflicts and promoting peace and security reverses the primacy that the OAU accorded to the state and its state-centric principles over people and the rights and interests of citizens. Most notably, it revises the understanding and scope of application of the principles of state sovereignty and non-interference. By narrowing down the scope of application of state sovereignty and non-interference, this provision removed some of the issues these principles had hitherto covered from the exclusive domestic jurisdiction of the state and made them matters of continental concern. It settled the controversy around the limits of these principles in cases of grave

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26 See OAU 1963: article III, sections 1, 2, 3 and 5.

27 As one author put it, 'the OAU was still firmly rooted in its ideal to protect state sovereignty and its unwillingness to intervene in the internal conflicts of member states.' In elucidating the impact of this, the author further said: 'Its stance on sovereignty was perhaps the main weakness of the OAU when it came to conflict management, and one that threatened to render the organisation irrelevant in the new international environment' (Olonisakin 2000:42).

28 For literature on this, see Aneme 2008; Cilliers and Sturman 2002; Kindiki 2007 and Yusuf 2005:3–21.

danger to the lives of citizens of a state. This represents a paradigmatic shift from the OAU's exclusive focus on state security to the security and wellbeing of individuals and peoples encapsulated by the concept of human security. Unlike the OAU Charter, the Constitutive Act has a strong human rights content. Indeed, one of its objectives is to 'promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments'.<sup>29</sup>

As such, sovereignty and non-interference would no longer shield states from external scrutiny and even military intervention, not only where they endanger the lives of people on a massive scale, but also where they are unable to protect their citizens from such grave threats.<sup>30</sup> Nor can these principles justify inaction on the part of the AU in the face of such threats. In this, the AU Act became a pioneer in leading what has come to be characterised as a 'systemic shift in international law, namely, a growing tendency to recognise that the principle of state sovereignty finds its limits in the protection of "human security"' (Stahn 2007:99, 100–101).

Sovereignty is additionally redefined in another way as well. This is the shared responsibility that African states assumed for the peace and security of each African state. This is expressed through the affirmation by AU member states of 'the fact that the defence and security of one African country is directly linked to that of other African countries' (AU 2004: para. 11).

### **Interventionist peace and security regime**

The peace and security regime to which AU member states subscribed is not based on a traditional security paradigm that exclusively focuses on violent conflicts. It is rather a regime that is premised on the new security paradigm that focuses on broader human security issues. The new normative concept of

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29 See OAU 2000: art. 3(h).

30 As Cilliers and Sturman (2002) put it, '[t]he absence or disappearance of a functioning government can lead to the same kind of human catastrophe as the presence of a repressive state. In Africa, intervention will be needed in as many cases where a weak state is unable to protect its citizens, as when a repressive state is unwilling to do so or is itself the cause of the abuse'.

human security, which underpins the AU's peace and security regime, is more explicitly stated in the AU's Solemn Declaration on a Common African Defence and Security Policy (CADSP). The Policy makes as its point of departure a definition of security 'which encompasses both the traditional, state-centric, notion of the survival of the state and its protection by military means from external aggression, as well as the non-military notion which is informed by the new international environment and the high incidence of intra-state conflict' (AU 2004: para. 6). More than anything else, it is the rise in intra-state conflicts witnessed on the continent during the post-Cold War period that prompted African states to embrace the new normative concept of human security as the basis for the AU's peace and security regime.<sup>31</sup>

The AU's peace and security regime is thus one in which not only violent conflicts but also issues of democracy, human rights and governance feature prominently. Article 3(h) of the Constitutive Act (OAU 2000b) states as one of the objectives of the AU: the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights (ACHPR) and other relevant human rights instruments.<sup>32</sup> Additionally, the promotion of democratic principles and institutions, popular participation and good governance is made to form part of the objectives of the AU (OAU 2000b: art. 3(g)).

Out of the 16 fundamental principles by which the AU is to be guided, at least six could be said to embody human rights provisions and one is concerned with human rights issues in the context of violent conflicts. Most notably, Article 4(m) stipulates that respect for democratic principles, human rights, the rule of law and good governance is one of the fundamental principles of the AU. Under Article 30, the Constitutive Act stipulates that governments which come

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31 As the Policy states: 'The causes of intra-state conflict necessitate a new emphasis on human security, based not only on political values but on social and economic imperatives as well' (AU 2004:3).

32 In the OAU Charter, except the indirect reference made to the Universal Declaration of Human Rights in the preamble, human rights were not incorporated into any of the substantive parts of the Charter.

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to power 'through unconstitutional means shall not be allowed to participate in the activities of the Union'.

Accordingly, apart from violent conflicts, conditions that the CADSP defined as threats to peace and security in Africa include:

- Lack of respect for sanctity of human life, impunity, political assassination, acts of terrorism and subversion;
- Coups d'état and unconstitutional changes of government, as well as situations which prevent and undermine the promotion of democratic institutions and structures, including the absence of rule of law, equitable social order, population participation and electoral processes;
- Improper conduct of electoral processes;
- Absence of the promotion and protection of human and peoples' rights, individual and collective freedoms, equitable opportunity for all, including women, children and ethnic minorities;
- Poverty and inequitable distribution of natural resources; and
- Corruption.

While these furnish the normative foundation that makes it possible for AU member states to pursue the ideal of 'African solutions to African problems', the AU peace and security regime additionally provided for institutions charged with the mandate of taking decisions on matters of peace and security on the continent. These constitute the institutional dimension of the APSA

### **Institutional dimension of the APSA – The PSC**

This is the most commonly discussed component of the APSA that is established under the PSC Protocol. Article 2 of the PSC Protocol (AU 2002) defines the components of the APSA that support the work of the PSC, which is the core of the APSA. These are the AU Commission, a Panel of the Wise, a Continental Early Warning System (CEWS), an African Standby Force and a Special Fund. The regional mechanisms for conflict prevention, management and resolution are also tied with the APSA.



## **The PSC**

The APSA is anchored in the PSC. The PSC is the engine of the APSA. According to the PSC Protocol, the PSC is a standing decision-making authority and serves as 'a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa' (AU 2002: art. 2).

In terms of the focus of this article, a question of particular significance is whether the PSC is vested with the powers that are necessary to enable the AU to take the lead in defining the peace and security agenda of the continent.

The powers of the PSC are defined under Article 7 of the PSC Protocol (AU 2002). An analysis of this provision reflects that the PSC is entrusted with expansive powers that make it the authority to be reckoned with on matters of peace and security on the continent. With respect to conflict prevention, management and resolution, the PSC has the power (a) to anticipate and prevent disputes (art. 7.1.a.), (b) to undertake peace-making and peace-building to resolve conflicts (art. 7.1.b.) and (c) to authorise the mounting and deployment of peace support missions (art. 7.1.c.). Regarding 'grave circumstances' identified under Article 4(h) of the Constitutive Act, the PSC is vested with the power (a) to anticipate and prevent policies that may lead to genocide and crimes against humanity (art. 7.1.a.) and (b) to recommend to the AU Assembly intervention in a member state in respect of grave circumstances (art. 7.1.e.). With respect to governance and human rights issues, the PSC also enjoys the power (a) to institute sanctions whenever an unconstitutional change of Government takes place in a member state (art. 7.1.g.) and (b) follow-up the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by member states (art. 7.1.m.).

Other powers that are conferred on the PSC to guarantee that Africa is in charge of its peace and security agenda include those relating to its mandate to 'promote and develop a strong partnership for peace and security between the AU and the United Nations and its agencies, as well as with other relevant international organizations' (art. 7.1.k.) and to 'develop policies and action required to ensure that any external initiative in the field of peace and security on the continent

takes place within the framework of the Union's objectives and priorities' (art. 7.1.1.). These are meant to ensure that decisions and initiatives that non-African actors take are consistent with the concerns and needs of people of the continent.

Like the United Nations Security Council, the PSC is composed of 15 members of which 10 are elected for a two-year term and the remaining five for a three-year term. In accordance with the AU principle of regional representation, it is the five regions of Africa that elect the 15 members of the PSC. The PSC decisions are generally guided by the principle of consensus. However, unlike the 1993 OAU Mechanism, in case of failure to reach a consensus, decision on procedural matters are by a simple majority and on substantive matters by a two-thirds majority of members eligible to vote (Art 8.13.).<sup>33</sup> In a situation where the PSC considers a crisis in one of its member states, the affected country does not participate in the PSC's deliberations on the matter. The provisional agenda of the Peace and Security Council is determined by the Chairperson of the Council on the basis of proposals submitted by the Chairperson of the Commission and member states. The inclusion of any item in the provisional agenda may not be opposed by a member state (art. 8.7). The practice however shows that the Commission has assumed a de facto role of deciding the agenda of the PSC with member states playing a secondary role.

Consistent with the power conferred on it, the PSC has during the course of the past five years established itself as an entity, willing and able to exercise its authority to address the plethora of peace and security issues on the continent. The fact that the AU has been at the forefront of many mediation efforts and has undertaken several peace support operations is in many ways attributable to the good use to which the PSC has put its rather extensive authority – albeit the work of the PSC leaves wide room for improvement.

Another manifestation of the increasing effectiveness of the PSC is the number of meetings it held and decisions it has so far taken. Since its launch in 2004, the PSC has so far held close to 300 meetings at various levels. The regularity of

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33 Cf. Rule 28 of the Rules of Procedure of the Peace and Security Council of the African Union.

its meetings has increased by more than threefold from 2004 to 2010.<sup>34</sup> As the decisions taken by the PSC show, the PSC has addressed a variety of issues, ranging from violent armed conflicts in Sudan and Somalia through unconstitutional changes of government in various African countries to electoral violence. Its decisions led to the deployment of peace support operations in Sudan and Somalia and facilitated the return of constitutional order in countries affected by coups or other forms of unconstitutional changes of government, including those in Guinea, Niger, Togo and Mauritania. Although they are few, the PSC also addressed thematic issues such as terrorism, small arms and light weapons, and children and women in armed conflict. The PSC also sought to promote the interests of Africa in the initiatives for achieving strategic partnership between the AU and the UN.

The above is a clear demonstration that Africa has come much closer to *Pax Africana* today than ever before. A further illustration of this is the evolving African methods and approaches taking shape in Africa's crisis management practice. Two case studies that best illustrate these are the AU's responses to the crises in Darfur and Libya. Both of these case studies show serious efforts on the part of the AU to develop indigenous analysis of the crises and formulate solutions that seek to permanently settle conflicts through a negotiated political process.

## **The practice: The cases of Darfur and Libya**

### **Darfur: Inclusive and comprehensive approach**

The Darfur conflict is one of Africa's most complex and deadly conflicts. It is estimated that over 200 000 people lost their lives and more than 2 million fled from their homes either as internally displaced persons or refugees.

The AU was involved from the very beginning in the search for a negotiated settlement. This started with the assistance that it gave Chad in organising the initial round of negotiations to resolve the Darfur conflict. This resulted in the 8 April 2004 N'djamena Ceasefire Agreement signed between the Government of Sudan, the Sudan Liberation Army (SLA) and the Justice and Equality Movement

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34 In 2004, the PSC held only 21 meetings, whereas it held 67 meetings in 2009.

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(JEM). In the subsequent agreement on modalities signed in Addis Ababa on 28 May 2004, the AU was assigned the role of being the lead international body in Darfur. Some of the notable initiatives in which the AU played a lead role include the negotiation and signing of the 2004 Ceasefire Agreement, the 2005 Comprehensive Peace Agreement and the subsequent Darfur Peace Agreement, which was hoped to herald the beginning of peace in Darfur.

The AU's mediation and peace-making efforts demonstrate that an area where the AU has a major comparative advantage over external actors is its ability to garner the trust of parties to a violent conflict, particularly of governments which generally object to outside interference. The AU has been able to use this trust to convince the parties, as in the Darfur situation, to agree on negotiations and to secure compromise.

Alongside peacemaking efforts, the PSC has been appropriately employed to develop the instrument of interim measures, which, if properly formulated and implemented, can contribute in particular to reducing violence against civilians. At its meeting of 4 July 2004, for example, the PSC urged 'the Sudanese authorities to assess the extent of the destruction related to the conflict in Darfur and to consider the ways and means of compensating the affected populations'.<sup>35</sup> Most importantly, in 2006 the PSC demanded that the parties cease all acts of violence and atrocities on the ground, particularly those committed against the civilian population, humanitarian workers and AMIS personnel.<sup>36</sup> It also demanded that the government of Sudan refrain from conducting hostile military flights in and over Darfur, and to expeditiously implement its stated commitment to neutralise and disarm the armed Janjaweed militias.

Despite their ambition, these initiatives have not, however, led to the desired result of ending the conflict and the violence Darfuris have continued to endure. In 2008, the AU PSC established the AU High-Level Panel on Darfur (AUPD). The AUPD was established to examine the situation in depth and submit

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35 Communiqué of the 12<sup>th</sup> Session of the PSC (4 July 2004), AU Doc. PSC/MIN/Comm. (XII), para. 5.

36 Communiqué of the 46<sup>th</sup> session of the PSC (10 March 2006), AU Doc. PSC/MIN/2 (XLVI), para. 13.

recommendations ‘on how best the issues of accountability and combating impunity, on the one hand, and reconciliation and healing, on the other, could be effectively and comprehensively addressed, including through the establishment of truth and/or reconciliation commissions’.

In preparing its report, the High-Level Panel conducted extensive consultations with all relevant stakeholders and undertook extensive study about the conflict. It submitted to the AU Commission on 8 October 2009 its analysis, findings and recommendations in a report entitled *Darfur: The quest for peace, justice and reconciliation*.

The report received the unanimous support of the AU membership, including, interestingly enough, that of Sudan. This was attributed to the methods employed in preparing the report and its comprehensive, balanced and frank treatment of the underlying causes of the conflict in Darfur. The method that the AUPD employed to develop its report was what, as Alex de Waal, one of the expert members of the AUPD, pointed out, could be called participatory listening (De Waal 2009). This is a method, which focuses on listening to members of the affected people from all walks of life to define their problem and propose solutions. On the basis of this, the AUPD conducted forty days of consultations and hearings with more than 3000 people representing various sections of the people of Darfur (De Waal 2009). The analysis of the issues and the recommendations proposed in the report drew their inspiration from the views of the people in Darfur.

According to the Panel, the Darfur crisis is a manifestation of the Sudan crisis in Darfur. Thus, it attributed the Darfur crisis to the socio-economic exclusion, the political marginalisation and the domination (due to an authoritarian and bad governance system) suffered by Darfur and its people. To use the expression of the Panel, ‘[t]he crisis in Darfur is a manifestation of Sudan’s inequitable distribution of wealth and power’ (AU 2009:xiii). The AUPD recommended that the political system of Sudan be redesigned to guarantee equitable political participation and to justly accommodate the cultural and religious diversity of the country, that devolved structures of governance be crafted on the basis of federalism, and that socio-economic measures (including affirmative measures)

be implemented both to redress the prevailing inequalities at the root of the conflict and to compensate for the loss suffered by those affected due to the conflict. With respect to justice and reconciliation, the Panel innovatively recommended the establishment of a hybrid court to deal with the most serious crimes, the reform and issuance of appropriate laws, the restructuring of the justice administration system to re-establish its independence and credibility, the payment of reparations for victims and the establishment of a justice and reconciliation commission.

Both the richness of the report in terms of content and methodology and the support that AU member states extended to such a report reflect the orientation of the AU peace and security regime toward 'an approach to analyzing African problems, allowing Africa to take the lead in addressing Sudan's political crisis' (De Waal 2009). It exemplifies the preference in Africa for a peace process that is geared towards helping countries in conflict achieve domestic political consensus that is a guarantee for sustainable peace over a peace process that attempts to impose temporary peace by punishing some and rewarding others. This is also a peace doctrine that prioritises 'African analysis of African problems' (De Waal 2009) and accords a special place for a negotiated settlement.

### **Libya**

The crisis in Libya began on 15 February 2011 in Libya's second largest city, Benghazi, when residents of the city staged the first demonstration, protesting against the arrest of a human rights campaigner. Initially, police and paramilitary forces employed brutal but non-lethal tactics, relying on rubber bullets and tear gas to disperse protestors on February 15 and 16. This response was short-lived though. From 17 February, the Libyan government security forces started to use live ammunition, reportedly killing more than 150 people over the next three days. As the protests spread to many parts of Libya and the government security forces continued to use violence for repressing protestors, the situation descended into an armed conflict. Although considerably weaker, the opposition forces managed to push government security forces out of many parts of eastern Libya. On 23 February 2011, Gaddafi vowed to 'cleanse Libya house by house' until he had crushed the armed opposition, whom he sometimes labelled as

‘cockroaches’ and ‘traitors’ who were ‘drug-fuelled, drunken and duped’ (Al Jazeera 2011).

In response to the crisis, the PSC issued a number of communiqués and press statements. In the initial communiqué, the PSC was largely limited to expressing its ‘deep concern’ and condemning ‘the indiscriminate and excessive use of force and lethal weapons against peaceful protestors’.<sup>37</sup> Lacking in this response was any attempt of the PSC to go beyond condemning the ‘indiscriminate attacks and use of lethal weapons against peaceful protestors’. The nature of the violence additionally required investigation. Significantly, however, the PSC underscored the legitimacy of the aspirations of the Libyan people for democracy, political reform, justice, peace and security, as well as for socio-economic development.

Soon, the situation that started as a peaceful protest descended into armed rebellion thus becoming civil war. This development necessitated an approach different from the approach pursued up to that time. Accordingly, at its 265<sup>th</sup> meeting held on 10 March 2011 at the level of Heads of State and Government, the PSC adopted a major new initiative tailored to the changed nature of the crisis.

Apart from reiterating its condemnation of indiscriminate attacks and its emphasis on the legitimacy of the demand of the people of Libya for reforms and the need to ensure that they are achieved through peaceful and democratic means, the PSC outlined a four-point framework tailored for the newly evolved situation in Libya. These were (a) the immediate cessation of all hostilities, (b) the cooperation of the competent Libyan authorities to facilitate the timely delivery of humanitarian assistance to the needy populations, (c) the protection of foreign nationals, including the African migrants living in Libya, and (d) the adoption and implementation of the political reforms necessary for the elimination of the causes of the current crisis.<sup>38</sup> In the same communiqué, the PSC rejected military intervention as solution to the crisis. This was against the background

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37 Communiqué on the situation in Libya (23 February 2011). AU Doc. PSC/PR/COMM (CCLXI).

38 Communiqué on the situation in Libya (10 March 2011), para. 7. AU Doc. PSC/PR/COMM.2(CCLXV).

of what the Council called 'the transformation of pacific demonstration into an armed rebellion'. Subsequently, the four-point framework was developed into the AU Roadmap for the political resolution of the crisis in Libya.

While the AU outlined its Roadmap and established a High-Level ad hoc Committee for pursuing the implementation of the Roadmap, the conditions on the ground were fast changing. Most notably, two developments in the civil war created the conditions that were opportune for UN Security Council to assume leadership and adopt Resolution 1973 (UN Security Council 2011).<sup>39</sup> The first of the two crucial developments was the successful offensive that government forces launched in early March for retaking the towns they lost to the armed opposition. At the initial stages of the civil war, the armed opposition assumed control over not only Benghazi but also many other, particularly eastern, towns and cities. By the end of February and early in March 2011, rebel forces had made huge gains and assumed control of several coastal cities, including Ajdabiya, Ras Lanuf, Brega and Misrata in eastern Libya and the towns of Zuwara, Yefren, Zenten and Jadu in the west. In early March, Gaddafi's forces launched an offensive against the rebels in an effort to retake the coastal towns and strategic locations under the control of the opposition. In mid-March, the balance of power changed in favour of the Gaddafi forces. After a sweeping victory over the rebel forces, government forces threatened to crush the opposition in its stronghold city of Benghazi.

The other crucial development was unsubstantiated reports of the use of artillery, snipers and even air power, which were reportedly used indiscriminately against civilians, which according to human rights advocates amounted to crimes against humanity. This was accompanied by Gaddafi's unhelpful and very threatening rhetoric. In his televised address on 11 March 2011, Gaddafi urged his supporters to 'show no mercy' and go 'house to house' in Benghazi (Stanglin 2011).

The combination of sensational reports, the convergence in the views of various actors in the international community for military action and the imminent

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<sup>39</sup> The resolution imposed a no-fly zone and authorised member states 'to take all necessary measures' in order 'to protect civilians and civilian populated areas under threat of attack'.



assault on the opposition stronghold Benghazi together with the unhelpful rhetoric of Gaddafi culminated in the UN Security Council adopting Resolution 1973 (UN Security Council 2011).<sup>40</sup> After determining that the situation in Libya constituted a threat to international peace and security and acting under Chapter VII of the UN Charter, the UNSC authorised member states ‘to take all necessary measures’ in order ‘to protect civilians and civilian populated areas under threat of attack’ in Libya while ‘excluding a foreign occupation force of any form on any part of Libyan territory’. While demanding an immediate ceasefire as well as an end to the attacks against civilians, it established a no-fly zone, banning all flights in Libyan airspace in order to help protect civilians, and authorised member states ‘to take all necessary measures to enforce compliance’.

NATO took over the responsibility of undertaking the military intervention (enforcing resolution 1973) not long after the so-called permanent three members of the UN Security Council (US, France and UK) launched the intervention.

The roadmap that the PSC outlined for resolving the crisis in Libya was informed by and reflected the priority that the AU accords to the negotiated settlement of crises. If supported and implemented, the AU hoped that the roadmap would have led to a negotiated outcome capable of both avoiding the violence and meeting the aspirations of the people of Libya for freedom and democracy. To implement this roadmap, the PSC established the High-Level ad hoc Committee (AU Peace and Security Council 2011). The High-Level ad hoc Committee took a number of initiatives in pursuance of its mandate, including a consultative meeting with the neighbouring countries and the international partners, in Addis Ababa, on 25 March 2011, and a visit to Libya, on 10 and 11 April 2011.

As AU Commission Chairperson Jean Ping put it, ‘one of the aspects highlighted by the crisis in Libya relates to the reluctance of some members of the international community to fully acknowledge the AU’s role’ (AU Commission

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40 This resolution was adopted by a vote of ten in favour, none against, and five abstentions: permanent members China and the Russian Federation, plus non-permanent members Brazil, Germany, and India.

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2011:4). NATO's intervention was undertaken against the expressed objections of Africa and at the expense of Africa's emerging peace and security architecture. Most notably, it robbed Africa of its role of pursuing the solutions it proposed to the crisis and in so doing it marginalised AU's admittedly weak voice. In the process, it undermined the APSA and AU's political principle of 'African solutions to African problems'.

With the objective of regime-change quickly supplanting the rationale of establishing a no-fly zone and protecting civilians, NATO countries were determined to use military means as the only solution to the crisis in Libya. NATO's intervention was therefore not flexible enough to accommodate the implementation of the roadmap that the AU outlined for the political resolution of the crisis in Libya. Thus, the opportunities that arose when the Libya government declared its willingness for a ceasefire and a negotiated settlement were not adequately explored. Instead, the government's declarations of ceasefire and willingness for negotiation were dismissed as a deliberate ploy by Gaddafi to buy time and shield himself from the escalating military assault targeting him and his government. By May 2012, the AU even managed to secure Gaddafi's commitment that he would not be part of the negotiation for the formation of a new government and of the government to be formed. On 12 January 2012, South Africa's President Jacob Zuma, during an address to the UN Security Council, stated that 'the AU's plan was completely ignored in favour of bombing Libya by NATO forces' (Zuma 2012).

Despite the well-accounted limitations in the AU's response to the Libyan crisis, it was not because of any inherent flaws with the plan that the AU's roadmap failed to achieve its objectives. As subsequent developments in Libya and the Sahel region revealed, if the AU plan was given a good chance with all the support it required, perhaps the Libyan crisis could have been resolved with less destruction and the fallout that resulted from the purely military approach could have been prevented with countries like Mali being spared from the crisis now befallen them. Once again, the AU's approach in this instance manifested the seemingly particular importance that is attached to a negotiated end to crises in the evolving AU peace and security regime.

## Conclusion

Although there is a long way to go to make the ideal of 'African solutions to African problems' a daily reality, significant progress has been made to uphold this ideal in the context of the transformation of the OAU to the AU. This is most notably achieved by establishing the APSA as the institutional embodiment of this Pan-African ideal. Within the framework of the APSA, member states of the AU regard the PSC as a body that is charged with the responsibility of maintaining the peace and security of Africa. This has for the first time offered Africa a comprehensive framework to develop African analyses of the problems facing people of the continent and to formulate its own solutions. One of the notable features of the AU's approach to resolving conflicts is the bias towards a negotiated settlement and its emphasis on the centrality of political processes.

It also emerged that 'African solutions to African problems' is an ideal with many drawbacks. The major one is the sheer number of constraints present in Africa that defy and challenge the pursuit of this ideal. Capacity and resource limitations are often cited as being major in this regard. While these are no doubt crucial, the most important constraints to pursuit of this ideal are in the realm of politics. Here we should cite the nature of the global political order and importantly the sheer inadequacies of the African political leadership.

As the Libyan case illustrated, in cases where the interests of dominant global powers were involved, Africa cannot pursue its peace and security agenda independently. In such a context, any attempt on the part of Africa to pursue its own solutions will face resistance that will frustrate and ultimately abort it. The post-Cold War global political context, or more accurately the multipolar global order of the 21<sup>st</sup> century, is such that Africa remains weak to remove 'the danger that the ability of the peoples of Africa to determine their destiny would be severely compromised and undermined' (Mbeki 2012).

The increasing recognition of the importance of Africa partly highlighted by the enviable inroads that China made into the continent carries a further risk of increasing the influence of global powers on the affairs of the countries of the continent.

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This vulnerability is further compounded by the excessive dependence of the APSA on external funding. Almost all of the peace operations that the AU launched have been exclusively funded through support from AU partners, most notably the EU. This dependence served outside powers to exert enormous influence on the politics of such operations. The experience illustrated that the cost for Africa has been loss of political control.

A further challenge for this ideal is that it depends for its application, among others, on African states and the African political leadership. Unfortunately, the history of Pan-Africanism since independence shows that it is only when there are leaders that champion it and make it a priority in continental politics that ideals of Pan-Africanism such as 'African solutions to African problems' galvanise the support of countries of the continent. There are times, such as the present one, when the continent happens to be without leaders committed to pushing the agenda of Pan-Africanism.

This exclusive reliance on and bias towards the state and the African political leadership should be rectified. There is a need for this ideal to be owned and employed by members of society, the media, civil society actors, academia and other centres of popular power. It is only then that this ideal would acquire a true force capable of defending and sustaining it.

Another major challenge for the application of 'African solutions to African problems' is the difficulty of consensus-building among African states and lack of political will. Under the PSC Protocol, African states have committed to 'extend full cooperation to, and facilitate action by the Peace and Security Council for the prevention, management and resolution of crises and conflicts' (AU 2002: art. 7.4.). Notwithstanding this, AU member states have not always provided the PSC with all the necessary support for the implementation of its decisions. One manifestation of this is the reluctance that many African states displayed for contributing troops for AU's mission in Somalia, probably because the Al Shabaab menace has come to represent a threat not only to the countries of the region but also to countries in West Africa and the Sahel.

The challenges to the Pan-African ideal of 'African solutions to African problems' are enormous. This is mainly because of its double burden: it has to

contend with both internal and external forces that militate against the genuine independence of Africa. Yet, it is an ideal with enormous moral and political force. As AU Commission Chairperson Jean Ping rightly pointed out:

[L]asting peace on the continent can only be achieved if efforts to that end are based on the full involvement of Africa and a recognition of its leadership role because, as stressed by the Summit in August 2009, without such a role, there will be no ownership and sustainability; because we understand the problems far better; because we know which solutions will work, and because, fundamentally, these problems are ours, and our peoples will live with their consequences (AU Commission 2011:4).

The challenge for Africa and the AU is to mobilise and commit the political and material investment that is required to fulfil the promise of 'African solutions to African problems', namely *Pax Africana*, a peace 'that is protected and maintained by Africa herself' (Mazrui 1967:203).

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# The African Union and the New Partnership for Africa's Development (NEPAD): Restoring a relationship challenged?

*Chris Landsberg\**

## **Abstract**

Africa faces a dual challenge of governance and development, with institutional and implementation crises looming large. Whereas the continent has gone through an energetic period of diplomacy during the decade 1998–2008, in which institutions and programmes like the African Union (AU) and the New Partnership for Africa's Development (NEPAD) have been established, we have also witnessed serious problems revealing themselves. One such problem has been institutional rivalries which served to undermine the continent's political and development agendas, and one such enmity was the tension and rancour between the AU and NEPAD. The newly elected Chair of the AU Commission in Addis Ababa will have to address such serious institutional tensions and rivalries in the continent.

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\* Professor Chris Landsberg is South African National Chair: African Diplomacy and Foreign Policy, the South African National Research Foundation, and Senior Associate in the School of Leadership, University of Johannesburg, with specialist interest in Africa's international diplomacy and leadership and South Africa's foreign policy. He is author of *The diplomacy of transformation: South African foreign policy and statecraft* (Macmillan, 2010).

The relationship between the AU and NEPAD has exposed competition over status, scarce financial and human resources, policy influence and petty squabbles amongst diplomats and officials. The tensions between these poorly anchored and weakly consolidated institutions and initiatives have prompted some to suggest that NEPAD needed to be fully integrated into the AU and to fall under the command and control of the AU as premier body. When the AU finally settled on the idea of 'integration' after years of prevarication and equivocation, new institutional and human resource capacity building challenges began showing themselves. This was not all, however. A political leadership vacuum was added to the series of problems which bedevilled the continent, and African pivotal states like South Africa, Nigeria, Senegal, Algeria and others, who were all instrumental in crafting the continent's new, post-Cold War order, failed to demonstrate the necessary agency and leadership.

While there is no doubting that NEPAD is a programme of the AU, its role should be, amongst others, to bolster technical and operational expertise, and support the AU and its processes, and become instrumental in facilitating, conceptualising, and even implementing policies. Crucially, NEPAD could and should provide technical backstopping for the AU and its organs, and become directly involved in promoting capacity building for the AU and regional economic communities (RECs). It has a vital role to play in ensuring that new processes of monitoring and evaluation are introduced within the context of African inter-state politics and diplomacy, and also in helping to ensure that programmes of the AU are implemented and African states and international partners meet their obligations towards the AU. NEPAD's niche with regard to resource mobilisation should be bolstered. The AU for its part needs to urgently address its very serious institutional capacity constraints, and to focus squarely on the need to restore Africa's international agency and leadership.

## **Introduction**

Now that the bitter and tense battle between former AU Commission Chair, Dr Jean Ping, and South African Minister Nkosazana Dlamini-Zuma is over, the focus may shift to the issue of the continent's institutions that needs to be addressed. It is likely to dawn on the new AU Commission Chair, Dr Dlamini-Zuma, and

her team that the African challenge is essentially a two-pronged challenge of governance and development. Pertaining to the governance *problematique*, Africa has long struggled with the issue of establishing and consolidating strong and effective institutions as states try to bring about a rules-based continental order (Landsberg 2012:180). When borrowing from institutional theory, for example, 'norms, rules and values' are important in regulating behaviour and conduct of political actors, and institutionalism discourse teaches us that the institutional environment of a policy can strongly influence the formal structural performance in an environment (Heywood 2000:93). Organisations can typically gain legitimacy if actors take issues of policy planning, policy design and policy implementation seriously. In short, institutionalism studies macro-organisational phenomena, something that Africa's decision-makers, including those responsible for managing inter-state institutions, need to appreciate more.

The period 1999 to 2003 was of key importance for inter-state African relations, as we witnessed African leaders engaging in painstaking diplomacy to articulate a new continental order that would help the continent adapt to the new and fluid post-Cold War realities. Continental leaders crafted a set of initiatives and programmes, including a development programme in the form of the New Partnership for Africa's Development (NEPAD), established in 2001. Tim Murithi (2005:143) has interpreted NEPAD in institutional terms, arguing that 'NEPAD is an effort to create institutions and mechanisms that will work to achieve Africa's development objectives'.

Just months after NEPAD's establishment, we witnessed an even more momentous occasion when the Organisation of African Unity (OAU) was replaced in July 2002 by a new continental organisation, the AU, tasked with putting in place a continental structure that through co-operation would address challenges to the peace and security, governance, and development of the continent (Landsberg 2008:208; also see AU, 2004a). NEPAD was a modernisation plan that sought to bring about faster economic development in Africa on the basis of accelerated growth, and an emphasis on developmental features such as education and skills enhancement, infrastructure development, health, aid, trade and market access. It looked to forge a strategic partnership with the outside world, including industrialised and emerging powers (Landsberg 2008:209).

The rationale behind NEPAD was 'to eradicate poverty and to place our countries, individually and collectively, on a path of sustainable growth and development' and ensure that Africa would 'participate actively in the world economy and body politic on equal footing' (NEPAD 2002:1). The main focus was thus on 'reversing the relationship that underpins Africa's underdevelopment, particularly with the North and the donor community', whilst philosophically the mandate was for NEPAD to be driven 'by Africans, for Africans', through a 'new partnership' with the outside world rather than continuing the old forms of paternalism under a different guise (NEPAD Secretariat 2002).

NEPAD set out to inculcate 'a new way of doing things, at all levels', as its architects insisted on the 'demonstration of political leadership at the highest level', with an 'acknowledgement that Africans have to take more responsibility for their development than they have done in the past'. It was thus 'more than a collection of projects' and 'meant to rebuild the confidence of Africans, and for them to take charge of their development agenda' (NEPAD Secretariat 2002).

While NEPAD was established some nine months before the AU, in October 2001, the key point is that it was a programme of the AU, not vice versa. The AU owns NEPAD, and as the official development plan of the continent NEPAD had to take its cue from the AU. As former President Thabo Mbeki stated in 2003, while still South African head of state, the 'AU is the mother, NEPAD is her baby' (Mbeki 2003:44). John Akokpari employed the same metaphor when he stated that the AU was 'the womb that bore NEPAD' and that the 'AU has ownership and control over NEPAD' (Akokpari 2004:249).

The relationship between the AU, the continent's premier Pan-African integration institution and project, and NEPAD, the socio-economic programme of the AU, as well as the question of 'integration', are highly sensitive yet strategic issues (see AU 2004b). They reveal serious tensions, even rivalries, between many of the continent's states about competition over scarce resources, financial resources and policy influence, as well as petty jealousies amongst diplomats and officials. In the post-Cold War, post-apartheid era, South Africa emerged as a key player, able to shape continental politics and Africa's relations with outside powers in a decisive manner. South Africa was an influential shaper of both the AU and NEPAD.

However, South Africa argued that NEPAD was not ‘integrated’ into the AU, but rather it was the undisputed development programme of the AU. Others questioned this, suggesting that NEPAD now operates like ‘an AU within the AU’, and even finds itself in open competition with the AU. This controversial and contentious relationship between the AU and NEPAD necessitates a serious consideration of ways to address the problem. The ‘integration’ or ‘relationship-building’ process had to be followed on the basis of the question: what is in the best interest of *Africa* (and not the AU or NEPAD)? It will therefore be important for Dr Dlamini-Zuma, as newly elected AU Commission Chair, not to confuse the ‘narrow’ South African interest with the ‘continental’ interest. She will almost be forced to show distance from Pretoria and show that she can work for all of Africa.

### **Brief background of the issue**

The 2<sup>nd</sup> Ordinary Session of the Assembly of the AU, held in July 2003 in Maputo, Mozambique, adopted the ‘Declaration on the Implementation of the New Partnership for Africa’s Development (NEPAD)’ (AU 2003a). Paragraphs 8 to 11 specifically addressed the integration of NEPAD into AU structures and processes. That declaration came out in favour of formalising ‘the working relations’ between the AU Commission and the NEPAD Secretariat, especially for programme co-ordination and harmonisation. NEPAD was urged to ‘align and harmonise the conditions of service, rules of recruitment and accountability with the AU Commission’. The Declaration also called for specific actions with a view to integrating NEPAD into AU structures and processes (AU 2007:143), including:

1. establishing appropriate linkages between the NEPAD Steering Committee and relevant Organs of the AU including the Permanent Representatives Committee and the Executive Council;
2. formalising ‘the working relations between the AU Commission and the NEPAD Secretariat, especially for programme co-ordination and harmonisation’; and
3. developing ‘a sustainable funding mechanism for NEPAD after its complete integration into the AU structures and processes’.

Also in 2003, the Executive Council of the AU took a 'Decision on the Integration of NEPAD into the Structures and Processes of the African Union' (AU 2003b), and reaffirmed that NEPAD was 'an AU programme' and that its integration should be gradual and commence soon after 2003. The assumption which underscored this declaration was that an integration process and harmonisation should have taken place by the end of 2006.

In the end we know a process unfolded, albeit a slow, tardy process, full of stops and starts, and marked by high degrees of ad hocery, and it was only by 2010 that some clarity began to emerge. The question remains: should integration necessarily mean that NEPAD has to physically move to Addis and come under the AU's physical tutelage? Or are there other creative avenues that could be considered as forms of resolving the AU-NEPAD integration issue?

## **An outline of issues**

Following the above outline, it is clear that the AU is in need of a process and a clear agenda for both institutional development and integration. The following six areas are suggested for consideration: 1) NEPAD's original mandate; 2) an overview of NEPAD and institutional challenges; 3) the question of 'integration' or 'merger'; 4) the AU's capacity constraints and NEPAD; 5) NEPAD, civil society and international donor partners; and 6) lessons from the African Peer Review Mechanism (APRM).

## **Overview of NEPAD and institutional changes**

### **The case for NEPAD**

NEPAD's supporters viewed it as Africa's 'Marshall Plan', and a true development strategy of the AU. Its architects view it as an African Programme tailored by Africans for the development of the continent. For them, its ideological disposition, which made a link between development, peace and security, democracy and governance, and economic growth, constitutes a 'progressive' agenda (Landsberg 2008:207). African leaders made commitments to democracy as well as 'good' political and economic governance, and pledged to work towards

the prevention and resolution of situations of conflict and instability on the continent (Landsberg 2012:186). NEPAD regards 'good' political and corporate governance, peace and security as inherent requirements for lasting growth and development, and the programme impresses upon the world that Africans have taken ownership of their own development (See Moore 2003; see also Landsberg 2003a).

NEPAD places great emphasis on mobilisation of private sector investment, increased domestic savings and investment, as well as improving management of public revenue and expenditure (NEPAD Secretariat 2005). Its leaders advocate the alignment and buy-in of NEPAD goals and strategies at a country level. There was a clear link between NEPAD and the Millennium Development Goals (MDGs) as both sought to address extreme poverty, as well as securing primary education and basic healthcare, tackling the HIV/AIDS pandemic, and reducing maternal, infant and child mortality in Africa (Landsberg 2003b).

Whilst for NEPAD's proponents, the programme as it was constituted needed to be left as it was, for others it needed to be strengthened. They maintained that NEPAD had to continue to develop programmes and engage the international community for funding of programmes, and negotiate with African states and non-state actors to sign up to such a programme. Revitalising NEPAD as the flagship programme of the AU will take a lot of political will and sacrifice and will tax the office of the AU Commission in major ways.

### **The case against NEPAD as an autonomous entity**

NEPAD's critics questioned the very idea that it constituted a truly developmental plan, preferring to see it as a 'top-down' programme in which leaders drove the process without much civil society involvement (Landsberg 2008:207). They also argued that NEPAD harboured 'neo-liberal' economic tendencies and orthodoxies, and that these were not ideal for promoting poverty eradication and people-centred development (Landsberg 2008:207). For instance, one of the observers, Murithi (2005:145), argued that 'NEPAD, while a welcome initiative, in terms of its Pan-African scope, cannot fulfil its objectives because it is written largely in the language of neo-liberal economics'. Other critics have accused



the AU and NEPAD secretariats of constituting serious waste, and undermining the credibility of both the AU and NEPAD through duplication of programmes.

These critics suggest three ways of addressing the problem. Firstly, NEPAD needs to revert to its original mandate and assume the role of a technical agency for the AU. It has to be cautioned against becoming involved in policy-making matters, as that was not included in the role and mandate envisioned for it by the AU Assembly, the Executive Council and the Commission.

Secondly, efforts have to be made to transform NEPAD into a truly developmental plan. Some have suggested that this transformation could be achieved through a synthesis of old plans drawn up to redress the imbalances of such inherited colonial economic structures as the Lagos Plan of Action (LPA) of 1980 and the African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation (AAF-SAP) of 1989. A Revised NEPAD programme that grows out of this synthesis, they suggest, would give NEPAD much needed credibility and legitimacy in African quarters, and would mean that an integrated NEPAD would have a greater chance of enjoying broad support in Africa.

The third option is that NEPAD should become a forum for heads of state and government that would reflect and spell out avenues for partnership between Africa and the international community, and intra-African partnerships between states, private sectors, civil society, mass people's organisations, and others. However, NEPAD should take its cue directly from the AU structures, and could thus become the truly technical advice agency for the AU, and a real Development and Governance Forum, through which Africa would engage the international community as well as fellow Africans.

Whatever way is followed, the critics agreed that, as matters of urgency, all NEPAD programmes should become AU programmes and the legitimacy of NEPAD as an AU programme should be addressed.

## **The integration issue**

The above outline raises the question: what exactly do we mean by NEPAD integration? Is it proper to talk of NEPAD/AU integration? It is important to

talk of AU-NEPAD relationship building, and at all times to consider what is in Africa's interest, and what would advance the idea of African renewal and Renaissance, as opposed to what is good for the AU per se and NEPAD per se? What about relationship building between the AU and NEPAD secretariats? It seems proper that these two entities, especially their respective heads, should take the lead in relationship building, so is it not proper that all NEPAD programmes be harmonised with, and subsumed into, AU programmes? What about NEPAD financial and human resources: should these not go directly towards bolstering the AU?

So, while the question of 'integration' needs to be handled with care and due sensitivity, there are clear options that could be pursued that might break the deadlock and move the process forward.

### **Back to basics: The original mandate of NEPAD**

Has NEPAD overstepped its mandate, and is this what has given rise to the confusion and suspicions which currently prevail? In setting up NEPAD, the Lusaka Summit established the Heads of State and Government Implementation Committee (HSGIC), consisting of fifteen heads of state and government who were entrusted with the responsibility to:

1. identify strategic issues to be addressed, planned and be guided through at the continental level;
2. set up mechanisms for review of progress in the achievement of mutually agreed targets and compliance with mutually agreed standards; and
3. review progress on the implementation of past decisions and take appropriate steps to address problems and delays.

In order to carry out these functions, and in particular to develop a strategic plan for marketing NEPAD at national, regional and continental levels, the HSGIC established a Steering Committee, composed of Personal Representatives of its members, and the NEPAD Secretariat, with the aim of mobilising domestic support and facilitating private-public sector partnerships in Africa, as well as enhancing international partnership.

The development and implementation of NEPAD's Strategic Plan were guided by the principles of

1. adding new value to existing continental and regional programme activities;
2. building on prior progress and achievements and maximising collective learning from past efforts and initiatives;
3. sharing progress, outputs and impacts among all participating member states;
4. building partnerships and co-operation based on shared goals and needs and mobilising the different levels and ranges of capabilities for collective actions.

This outline clearly shows that the original mandate of NEPAD was intended as a socio-economic programme for the AU, to fulfil the role of technical agency of the Union and AU Commission. NEPAD was supposed to show leadership in technical and operational matters, and to play a role in helping the AU with policy facilitation, design and conceptualisation. However, it is the AU that can and should take policy decisions, not NEPAD. Maybe this is where NEPAD has overstepped the line: it started to get directly involved in policy-making matters, at times at the expense of the AU.

### **South Africa: NEPAD's temporary base?**

When it was decided in 2003 that the NEPAD Secretariat would be based in Midrand, South Africa, this was regarded as a victory for Pretoria-Tshwane, and a demonstration of its influence on the African political stage. With NEPAD being headquartered in South Africa, it would assert the Republic's status as an African pivotal state. But not all were content, neither with NEPAD's presence in South Africa nor with South Africa's growing influence in continental affairs. Since its establishment in 2002, the AU has been clear that Midrand would be a temporary home for the NEPAD Secretariat. This was a puzzling position, because it was not clear why the OAU, predecessor to the AU, had agreed to a proposal that South Africa would play host to the NEPAD secretariat. During the 2003 AU Summit, it was resolved that NEPAD would be given a three-year window before it was integrated into the AU. It was made clear, however, that integration did not necessarily mean a physical relocation of NEPAD's Secretariat from Midrand,

South Africa to Addis Ababa, Ethiopia. The AU rather had in mind seizing back from South Africa the command and control over NEPAD. It would be a good seven years before the integration process started in earnest, and only by 2010 did the mother body, the AU, and its kith and kin programme, NEPAD, start to agree on integration modalities.

### **Command and control: The real issue**

NEPAD has a very clear decision-making and command and control structure. The highest authority of NEPAD implementation is the Heads of State and Government Summit of the AU, which takes its cue from the NEPAD Heads of State and Government Implementation Committee, and the steering committee made up of personal envoys and chirpers of the leaders. The Implementation Committee reports to the AU Summit on an annual basis. The question is not whether NEPAD should have its own structures but what these structures should do and how they should relate to the AU and its structures. The lack of proper consultation has caused much damage to the AU-NEPAD relationship, and at times the two actors have made strange bed-fellows.

Maybe it would only be a proper move, and one enabling progress to be made, if, at a minimum, the question of appropriate consultation between NEPAD structures and the AU could be sorted out, and secondly, if the AU were to be properly represented in all NEPAD structures. Thus, the chair president of the AU should be involved in the NEPAD HSGIC structures; whilst the AU Commission should be represented in the Steering Committee and the Secretariat of NEPAD. This would help greatly to clear the air.

So, if we are all serious, there should be no controversy around amalgamating NEPAD and AU programmes, and NEPAD should continue to play the role of powerful African development and governance forum, focusing on dialogue and negotiations between Africans and the outside world, not only amongst Africans. NEPAD will return to its former mandate, and its programmes will be properly integrated into AU Commissions. The question of how the AU Commission manages and undertakes NEPAD functions and programmes is a valid one, and it should make a strong case for taking over NEPAD programmes, which could ask those of its programme staff working on the various programmes to become

AU Commission staff, and to be subsumed by the various Commissions, whether based in Midrand or Addis Ababa. Such a move would give the AU a boost for desperately needed human resources capacity, and thus the real issue is the end of duplication and waste, and the proper integration of NEPAD programmes into AU programmes. NEPAD has over the past four years negotiated very important flagship programmes such as infrastructure, tourism, agriculture, environment, science and technology, whilst the AU has eight fully-fledged commissions responsible for such programmes. Given the financial and human resource constraints, even crises, in the AU, we can ill afford this duplication and waste.

### **NEPAD and RECs and SECs**

According to its mandate, NEPAD is supposed to be, just like the Regional Economic Communities (RECs) and Sub-Regional Economic Communities (SECs) of the AU, an implementing agent and building block of the AU. The AU's Constitutive Act is clear that Africa's RECs are the essential building blocks for integration and economic development in Africa (AU Commission 2005). NEPAD itself emphasises the importance of the rationalisation of regional organisations and of capacity building to enhance the effectiveness of existing regional structures. RECs and SECs form the regional bases for planning, co-ordination, and monitoring of integration processes. It has long been the policy that the NEPAD Secretariat would not be directly involved in policy matters, but would rather serve as a catalyst, facilitator and negotiator of development programmes, with implementation left to RECs and SECs, whose roles and positions would be given clarity by a resolution of the AU-NEPAD relationship (AU Commission 2005).

The controversy about NEPAD's relations with, and integration into the AU, will thus be addressed if the AU and NEPAD could resolve their relationship. A focus on the AU-NEPAD relationship could therefore help to address the vexed questions of, on the one hand, the NEPAD-RECs relationship, and, on the other, the AU-RECs relationship. This raises an opportunity to look comparatively at how different RECs have approached – or failed to approach – NEPAD, which, in turn, brings up other issues: the rationalisation of the RECs, the proliferation

and overlaps of which complicate the entire AU-NEPAD integration, and the idea of RECs as the implementing agents of the AU and NEPAD.

### **The AU's capacity constraints and NEPAD**

Supporters of the status quo, that NEPAD should remain a programme of the AU but with a high degree of autonomy, pointed to NEPAD's weaknesses and capacity constraints in order to justify non-integration. The AU on the other hand tended to be defensive about such constraints. The AU currently experiences major capacity constraints, and has done so since its inception. The 2007 AU High-level panel report argued that the AU Commission had operated with only 60% of its capacity, and maintained that the Commission was 'heavily understaffed' and so followed 'an inefficient recruitment process', reminiscent of an organisation with 'lengthy decision-making processes', and low staff morale (See AU 2007:8). These are some of the palpable challenges that the new AU Commission Chair will have to confront.

These constraints should be taken into account when considering the question of integration, and we should not be surprised if there is serious non-action when it comes to the issue of integrating NEPAD into the AU structures. We should thus openly confront other questions: How should the capacity deficit be addressed? How should NEPAD's different elements be integrated into the different AU Commissions? Or should it remain a development programme in its own right? Should it become a programme under the aegis of the office of the AU Commission President? Should it retain operational autonomy? How should a division of labour be sorted out between the Commission and the AU? What will NEPAD's responsibilities be in future, and what will be the responsibilities of the AU Commission?

Could it be that the strength of NEPAD lies in it being a negotiator of development with the international community, or a promoter of African development in Africa and for Africa abroad? What about the scenario of NEPAD becoming, in real terms, the development programme, or plan of the AU – a catalyst, facilitator and negotiator? It would promote the development ideology and strategy of Africa, both to African states and external partners. It would see to it

that African states pursue and implement the development trajectory captured in NEPAD, and it would be the continent's interlocutor with international agencies, extracting assistance and other types of commitments from overseas partners, in support of the continent's development and renaissance.

### **NEPAD, civil society and international donor partners**

Supporters of NEPAD and the former status quo – of NEPAD staying outside the AU structures and command – are pleased that one of the programme's real achievements is that it has articulated a continental platform for Africa's engagement and partnership with the broader international community, especially the industrialised North. During its early years, the donor community was generally fascinated by NEPAD as they saw it as a plan for self-monitoring by Africans. For example, in 2002 and 2003, the UN General Assembly endorsed NEPAD 'as the policy framework around which the international community, including the United Nations system, should concentrate its efforts for Africa's development', and set out modalities for UN support to NEPAD (UN 2002a).

The idea of adopting NEPAD as policy framework, and requiring the AU to steer this programme, therefore created expectations which encouraged NEPAD to go beyond its mandate. New forms of partnership were negotiated by NEPAD, and the continent started to benefit from attracting foreign direct investment, increasing capital flows through further debt reduction and increased official development assistance (ODI) flows, market access, and resources to bolster Africa's peace support operations capacities (Centre for Conflict Resolution 2005). However, for critics of NEPAD and the status quo, the role by foreign agencies was part of the problem: foreign governments and donors have had far too much influence and control over NEPAD, and this has contributed significantly to NEPAD's legitimacy problems in Africa. For the critics, NEPAD has brought about a major dichotomy: abroad it is generally celebrated and respected; in Africa it has brought about divisions and suspicion. Civil society organisations (CSOs) attribute NEPAD's slow progress to the processes being elite and government driven, and as such little came of the ideas. For critics, integration would bring about much needed unity in and amongst Africans,

but CSOs would have to be involved if urgent action is to be effected (Centre for Conflict Resolution 2005).

Important questions arise here: what will happen to this relationship between NEPAD and the international donor community? And what should the future relationship be between the AU and international actors on the one hand, and NEPAD and international actors on the other? Will it be one set of relations, or something else? What future role should there be for civil society engagement with NEPAD?

Continental civil society actors have long lamented their having limited say and room to help shape NEPAD trajectories and programmes. For them, NEPAD remains a top-down programme, through which the NEPAD Secretariat and governmental actors foist ideas upon civil society, expecting them to implement these.

### **Lessons from the African Peer Review Mechanism (APRM)**

What lessons could NEPAD learn from the African Peer Review Mechanism (APRM)? In 2003 and 2004, African leaders agreed on a framework for a peer review mechanism designed to tackle obstacles to growth and development on the continent (Landsberg 2003c). The framework aimed at encouraging and building responsible leadership within the continent, and was to involve voluntary self-assessment, constructive peer dialogue and the sharing of common experiences. African states were encouraged to accede to the peer review process as a demonstration of their commitment to put in place best practices in political, economic and corporate governance in Africa (Landsberg 2003c). The idea was to expose under-achievers and identify problems, as well as provide corrective measures and support. Murithi (2005:143) depicted the APRM as ‘... a positive element of NEPAD’ and described the APRM as ‘a commitment to self-monitoring and accountability for promoting inclusive governance and constitutional government by relying upon peer pressure in which governments monitor each other’.

By early 2005, 29 African states had signed up to the APRM, which set up its own secretariat, and managed, by 2008, to demonstrate its independence from



African governments as well as international governments and donors. It also promoted strong collaborative relations with civil society actors. The APRM experience holds potentially powerful lessons for NEPAD.

The APRM as a programme enjoyed a great deal of autonomy and credibility before it too suffered at the hands of poor leadership and agency, which began round about the end of 2008. Prior to that, the APRM benefited from strong, strategic leadership, afforded to it by a highly respected group of African elders, who constituted its steering committee, determined to prove their autonomy from both African governments and international donors. While the APRM steering committee impressed upon African leaders the importance of funding their own inter-state institutions and programmes, such as the AU, NEPAD and the APRM, this committee was appealing for financial and technical assistance from donors, but in a way that required external partners and funders to deposit funds directly into an APRM Trust Fund (AU 2007a). On this score, the APRM's managers were particularly wary of being perceived as susceptible to undue donor influence.

Another manner in which the APRM's managers attempted to safeguard their autonomy was to adopt an even-handed approach vis-à-vis African governments, civil society actors and external funders. The APRM managers, as they embarked on reviews of the political, economic, corporate and socio-economic policy regimes, went out of their way to be balanced in their criticism of African governments, civil society and external donors alike. The 2007 AU High-level Panel Audit Report concluded that, 'with respect to the APRM, the Panel recommends that countries that have not yet should join and support the process and that the process should be accelerated to cover all countries' (AU 2007:144). The AU High-level Panel squarely placed the emphasis on states and their governments and leaders to show leadership and muster the will to rescue programmes like the APRM.

## **From New Partnership for Africa's Development (NEPAD) to the NEPAD Planning and Co-ordinating Agency (NPCA)**

The High-level Panel appointed by the Heads of State and Government (HSG) during the AU Summit in Accra in December 2007 to undertake an audit of the AU and all its organs and programmes, recognised '... the role played by NEPAD in engaging the RECs in the implementation of its Strategic Action Plan and its various sectoral programmes'. The High-level Panel asserted that this role '... would be essential when NEPAD would be fully integrated in the programmes and processes of the African Union'. NEPAD Heads of State and Government have themselves 'emphasised that NEPAD is a mandated initiative of the AU', and argued that '[t]herefore there should be greater co-operation and co-ordination between the AU and NEPAD Secretariats, as well as with the NEPAD Steering Committee'. They further reiterated that 'one of the goals of NEPAD is the promotion of regional integration' (AU 2007:142).

The 2003 decision by the Maputo Summit to accelerate the integration of NEPAD into the AU proceeded at snail's pace and there was need for urgency. In order to speed it up the AU Commission and the NEPAD Secretariat prepared, in 2007, a joint proposal (submitted to the HSGIC in Algiers in March 2007) with the thrust that:

1. NEPAD should remain a programme of the AU;
2. a Planning and Co-ordination Mechanism should be created;
3. the HSGIC should be strengthened and retain its present role;
4. the operations of the NEPAD Co-ordination mechanism should continue in South Africa (so as) to provide continuity and an excellent atmosphere to carry out its new roles;
5. a transitional period of one year would be needed for a streamlining of NEPAD activities and processes with those of the AU Commission; and
6. a Co-ordinating Unit should be created with the AU Commission to elaborate a detailed roadmap on integration of the NEPAD Planning and Co-ordinating Authority (AU 2007:143).

It took a full seven years after the proposition of 2003 in Maputo for the AU to integrate NEPAD fully into its structures. In November 2007, during a meeting in Dakar, Senegal, a decision was taken for NEPAD to be transformed into the NEPAD Planning and Co-ordinating Agency (NPCA), and only by 2010 did the actual integration materialise (AU 2007:144). The AU decided that NEPAD would become an agency, and the NPCA came to regard itself as 'the leading African development organisation, able to mobilise private sector, heads of state and African people as a force for positive change, building continental prosperity and regional integration' (AU 2007:144). It adopted a set of programmes under a 'thematic umbrella' (Kanyegirire 2010), which included regional integration and infrastructure; food security and agriculture; economic and corporate governance; climate change and natural resources management; human development; and cross-cutting issues, including strategic planning and knowledge management, capacity development, private sector development, and gender (Kanyegirire 2010).

Under the first theme, integration and infrastructure, the focus would be on regional integration, and the use of infrastructural development programmes in areas such as energy, transportation, water and information and communications technology (ICT) (Kanyegirire 2010). The food security and agriculture cluster would develop a growth-oriented agriculture agenda. The economic and corporate governance cluster would promote sound macro-economic and public financial management and accountability among African governments, while protecting the integrity of their monetary and financial systems (Kanyegirire 2010). A new cluster of the NEPAD Agency is climate change and resource management. The new Agency is of the view that addressing environmental issues is a prerequisite for the other goals of sustainable growth and development. Human development is an important challenge in Africa. For the NPCA, economic growth and poverty eradication on the continent could only be achieved by linking priorities such as education, science and technology, and healthcare. Some of the cross-cutting issues that would ostensibly affect the Agency's ability to deliver include: strategic planning; knowledge management; capacity development; private sector development; and gender (Kanyegirire 2010).

In spite of the NEPAD Secretariat being re-baptised as a technical body of the AU in the form of the NEPAD Planning and Co-ordinating Agency, little could conceal the fact that the new Agency, like its predecessor body, was beset with serious human resources and financial constraints. The NPCA appears to be weaker than it was before NEPAD's incorporation into the AU and its becoming a technical agency. The technical, human resource and financial constraints faced by NEPAD are palpable. In 2001/2, the NEPAD Agency's staffing contained a team of only eight members, and by 2003 the core team had dwindled to only three. In 2011 it saw a modest increase in the core team to six, with half of these being junior members (Kanyegirire 2010). These are grim numbers and highlight very serious implementation challenges for NEPAD.

Here should be added that there appears to be a serious lack of leadership on the part of both the secretariat and the AU to infuse into NEPAD the necessary urgency and gravitas which would befit a continental development programme. This has allowed even donors to turn a blind eye to NEPAD and renege on all their commitments made in its context. Dr Dlamini-Zuma and her new team of Commissioners will have to pay attention to this issue and consider taking up the recommendation as spelled out by the High-level panel.

Both the AU and the NEPAD Agency are in need of a serious capacity expansion plan that would see the focus being placed on more staff with the right professional skills. There is need for staff in both organisations, and those who currently fill the posts are in need of retraining and identifying new roles in line with new continental and global realities. Given that the unit of analysis of this article is the African institution, there is need to back up the input side of the process – vision, mission and strategy – with the output side of the process – management, execution and implementation.

### **Conclusion**

By the turn of the millennium, a group of African leaders articulated a bold new vision for Africa's political, economic, social, developmental and cultural revival. Many of them backed up these plans for continental renewal by putting in place a set of institutions and programmes that would translate vision and plans into

concrete outcomes and deliverables. They realised that Africa's new integration processes needed to be anchored in strong institutions and strong planning and implementation processes. By the end of the first decade of the 21<sup>st</sup> century, however, it became clear that the enthusiasm which had greeted the continent at the end of the 1990s had dissipated.

In a short time, Africa's institutions have become poorly anchored and weakly consolidated. Many continue to be bedevilled by internecine institutional rivalries and personality clashes. The continent's premier integration body, the AU, and its chief developmental plan, NEPAD, were embroiled in serious tensions and rivalries, triggering the call for NEPAD to be integrated into the AU. The answer, it was suggested, was to integrate NEPAD fully into the AU and bring it under the command and control of the AU Commission in Addis Ababa. The question of AU-NEPAD 'integration' is a sensitive issue and had to be handled with both delicacy and maturity. In the end we had both prevarication and unnecessary rush. Those who spearheaded the process appeared to be driven by agendas other than the crucial question of what is in Africa's interest and what it would take to advance the development of the continent. Notions of competition between NEPAD and the AU are issues that needed to be addressed from the onset.

Even now that the die has been cast and the AU has settled on transforming NEPAD into an agency and bringing it under the control of a very weak AU Commission, it is crucial to address the issue of institutional and human resource capacity building. A matter of urgency is the political leadership vacuum which appears rife in Africa and most of its institutions. Pivotal states like South Africa, Nigeria, Senegal and Algeria should all, in partnership with other African states, shoulder the burden of restoring continental agency and leadership if the continent is to start realising some of its development goals. Many of them could start by stabilising their polities at home and leading by example from the home front.

The leadership tensions which occurred when South Africa opted to field a candidate in the form of Home Affairs minister (and former Foreign Minister) Nkosazana Dlamini-Zuma, against AU Commission Chair incumbent, Jean

Ping, only served to weaken an already limp AU Commission. This move by Pretoria-Tshwane also served to divide the continent and to drive a wedge between key states like South Africa and Nigeria, and between regions like Southern Africa and West Africa. It is vital that African states realise that the AU, and all the organs and programmes they have created, are the custodians of African interests, and the greatest repository of African inter-state relations, African multilateralism and Pan-Africanism.

NEPAD is supposed to be a programme of the AU, its role being to bolster technical and operational expertise. It should support the AU and union processes, not compete with them. NEPAD has a key role in facilitating, conceptualising, and even implementing policies, but it was not mandated to make policy. It could certainly do so, but only under strict mandate and guidance of the AU. It could play an advocacy role, but only with regard to accepted and mandated AU policies. It could establish platforms; disseminate information and promote programmes, but in all cases it should be AU information and programmes, not NEPAD exclusivist programmes. Importantly, NEPAD could and should provide technical backstopping for the AU and its organs, and become directly involved in promoting capacity building for the AU and RECs. It has an indispensable role to play in terms of monitoring and evaluation, ensuring that programmes of the AU are implemented and African states and international partners meet their obligations towards the AU. Vitality, it has developed a niche with regard to resource mobilisation, and it should be encouraged to continue to do so, with one important caveat: NEPAD should not mobilise resources for NEPAD, but should do so for the AU.

The AU in turn needs to urgently address its very serious institutional capacity issues. This is a challenge that the newly elected AU Commission chair, Dr Dlamini-Zuma, will find difficult to ignore. The sooner African states and heads of institutions realise that the problems of the AU and other continental bodies do not just lie at the national, regional and international levels, but also at the level of institutions, the sooner Africa can start to reclaim some of its desperately needed international agency.

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## The AU and NEPAD: Restoring a relationship challenged

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# The African Union's diplomacy of the diaspora: Context, challenges and prospects

*Makumi Mwagiru\**

## **Abstract**

This article examines the venture of the African Union (AU) into diasporic diplomacy. It inspects the context in which this was done, and the thrust of its diplomacy in the diaspora. It identifies four crucial diasporic communities with which states and organisations like the AU must interact if they wish to have proper and functional diasporic diplomacy. These are the African diaspora abroad (i.e. outside Africa), which consists of the historical and the contemporary diaspora, intra-African diasporas in the continent, and the diasporas of other regions in Africa. It is argued that the African diaspora abroad consists of the historical diaspora, and the contemporary diaspora. The article makes the case that the AU should concentrate its diaspora diplomacy on the historical diaspora, since concentrating on the contemporary African diaspora abroad pits it against member states which are also practicing diasporic diplomacy. Instead, it is suggested that the AU should play a facilitative role and also engage these other diasporas in the service of African diplomacy.

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\* Makumi Mwagiru is Professor of Diplomacy and International Conflict Management, and Director, Institute of Diplomacy and International Studies, at the University of Nairobi.

## **Introduction**

The AU has for the last seven years or so engaged in the diplomacy of the diaspora. This engagement reflects a universal re-awakening to diasporas which has emerged as an important part of a state's strategies for enhanced growth and development. This incursion into diasporic diplomacy by the AU has several strands: it is an expression of the increasing awareness that the continent must seek out new partnerships for its development; but it is also an area where the AU pits itself against member states which are also trying to tap their diasporas in the quest for faster development. There is, therefore, clearly a conflict of interest that could derail the mutual pursuit of the diaspora by both the organisation and its member states.

This article argues that while the entry of the AU into diasporic diplomacy is timely, it must be properly defined and understood. The entry of the AU into this area of diplomacy should not be designed in a way that creates conflicts between the organisation and its member states. In order to avoid this possibility, the borders of the AU's diasporic diplomacy must be more clearly drawn. This article examines the concept of diaspora and diaspora diplomacy, analyses the AU's venture into diasporic diplomacy (and the problems associated with it), offers a critique of AU diaspora diplomacy, and suggests other diasporas that ought to be a part of AU diplomacy of the diaspora. These other diasporas have been ignored in AU diplomacy of the diaspora, even though they could be harnessed into the service of African diplomacy. Finally, it considers the prospects for AU diaspora diplomacy.

## **Diaspora and diplomacy of the diaspora**

The term 'diaspora' has sometimes run the risk of becoming meaningless. This was – and still is – because of a tendency to apply the term to a wide category of people who have been dispersed from their homeland. When used in this way, it is applied regardless of the reason for their dispersal. This – what Brubaker calls universalisation of the term – means that almost everyone is diasporic. And if everyone is diasporic, then the term diaspora is no longer able to delineate between categories. And if it is no longer able to do this, it will have a very

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short conceptual life (Brubaker 2005:3). This tendency to describe almost every dispersed population as diasporic led to calls for a clearer and more stringent definition of the term (Tololyan 1996).

This definitional problem of all-inclusiveness has been addressed by an emergent consensus on three criteria for the constitution of a diaspora. These are dispersion, homeland orientation, and boundary maintenance. The first refers to any form of dispersion as long as territorial borders are crossed. It has been argued on this reasoning that ethnic communities divided by territorial borders also constitute a diaspora (Brubaker 2005:5). Homeland orientation requires some loyalty to, or recognition of, a real or imagined homeland from which flow value, identity and loyalty. Boundary maintenance involves maintaining an identity distinct from that of the host society, which can be done by resisting assimilation into the host society through self-segregation, or can be an unintended consequence of social exclusion (Brubaker 2005:6).

Into this frame, there developed – or was constituted – an African diaspora. 'African diaspora' is a political term originally used to emphasise the experience of African people dispersed by the slave trade. It is also an analytical term permitting discourse about black communities across territorial borders (Patterson and Kelley 2000:14). This diaspora, however, is not a nation. As Patterson and Kelley (2000:15) note,

... the diaspora is not a sovereign territory with established boundaries, though it is seen as 'inherently inherited' to people of African descent ... while there is no official language, there seems to be a consistent effort to locate a single culture with singular historical roots, no matter how mythical ... many members of this diaspora see themselves as an oppressed 'nation' without a homeland, or they imagine Africa as their (future?) home.

This understanding of the diaspora, as people who have been dispersed beyond the territorial borders of their country, but who retain some loyalties for the country that they came from, and who, in their new habitat retain also some social exclusiveness, frames the emergence of the notion of a diplomacy of the diaspora. The diplomacy of the diaspora is not the normal state-centric diplomacy. It is more in the nature of sustainable diplomacy (Constantinou

and Der Derian 2010), to the extent that it tries to bring concerned non-state actors into an arena where diplomatic strategies of state are formulated and implemented. In this diplomacy, the diaspora is brought into the diplomatic mainstream both as addressees of diplomatic policy, and as participants in the diplomatic – and foreign – policy-making processes. In diaspora diplomacy the role and the social, economic and political welfare of the diaspora as citizens take centre stage. In the context of the AU, but also in that of an individual state, diplomacy of the diaspora will constitute, to paraphrase Cross (2010:205),

[a] dialogue among citizens that transcends national borders, [leading] to stronger societal interdependence, and eventually some sense of common [African] identity. Citizens in the [African Union] can serve as cultural ambassadors.

The essence of the diplomacy of the diaspora is to enhance and maintain the linkages between members of the diaspora and citizens in the home state, and especially to encourage the diaspora to participate in economic and political processes in the home country. This happens through creating policy incentives for the diaspora, and loosening bureaucratic hurdles to their participation, both politically and economically. It is also done through establishing structures specifically meant to address diaspora issues, such as diaspora departments in ministries of foreign affairs (such as in Kenya) and organs like a ministry of the diaspora relations (as exists in Ghana). The opening up of the diplomatic space for the diaspora leads to the realisation of another political role for the diaspora. The numbers of the diaspora of some countries like Kenya are significant enough to decide an election, especially a presidential election, if they were allowed to vote. Opening the diplomatic space entails loosening the impediments to their political participation, especially in voting during general elections. While there exist forceful arguments against the diaspora voting unless they first pay taxes (Kapur 2003), the important thing is about the agreement in principle upon the diaspora's right to vote.

## **AU diplomacy of the diaspora**

The rationale of AU diplomacy of the diaspora is to provide leverage to the African diaspora and make it a cornerstone of African integration and development. So important is the diaspora to the AU that its constitutive act has been amended to bring in a new article – allowing the organisation to invite and encourage full participation of the African diaspora as an important part of the continent. It is also thought that the African diaspora contains a huge talent bank which, if nurtured by the AU, can enable African development to shift to the next level (Ogom 2009:166). The AU and its organs like the Economic, Social, and Cultural Council (ECOSOCC) are restructuring their laws and procedures to allow the formal participation of the diaspora in official programmes and processes. While AU diplomacy of the diaspora is at once a diplomacy with and about an outside actor, it is also a diplomacy with an inside actor in the sense that the AU considers the diaspora to be the sixth economic region of the continent.

It is estimated that the African diaspora targeted by AU diaspora diplomacy has a spending power of about US\$ 500 billion per year. This might explain the thrust of the AU's definition of the African diaspora as being 'peoples of African origin, living outside the continent, irrespective of their citizenship and nationality, and who are willing to contribute to the development of the continent and the building of the African Union'. This definition has been criticised for being so utilitarian that it excludes people who are in the diaspora, but have no means to contribute financially to the union (Omeje 2007:96–7). In any event, the spending power of the African diaspora is gross spending power of individuals and institutions. It does not take into account that the net spending power is less and is also constrained by other needs of the individuals and institutions.

The African diaspora is very wide. It includes not only those of African origin living outside the continent, but also those who may not even hold the nationality of an African country, but who consider themselves to have an African ancestry (Omeje 2007:95). This diaspora consists of two quite different components. The first is what may be termed the 'historical' diaspora. This consists of those black people who were taken into slavery, ending up in the Americas, Caribbean and other places (Black 2011). This diaspora's Africanness is fictive, although

there are those who maintain that the African-American community did not sever its ties with Africa, and that these links can be strengthened further (Veney 2002). The second component of the African diaspora are those contemporary Africans who have dispersed outside their home countries in the last sixty or so years. By and large, this group left voluntarily for education, and later in search of greener pastures. This group is now in the third generation of diasporahood, and still largely retains roots and ties to the home country.

The AU should concentrate its diplomacy on the first of these diaspora groups, namely, the historic diaspora. It should do so because as an institution, it is better placed to deal with this group of the diaspora directly. As an organisation, it is less encumbered in bringing this diaspora into the frame of its development and other operations, which its individual member states might be unable to do. Because it has a certain competitive advantage over its member states in dealing with this sort of group, it should concentrate its diplomatic energies there.

The main question about dealing with this historical diaspora is whether it still retains a sense of connection with the continent. It has been argued, with merit, that a necessary requirement for engagement with the diaspora is whether at all times it has 'the sense of connection to a homeland...strong enough to resist forgetting, assimilating or distancing' (Shuval 2000:43). The historical diaspora was not itself ever in Africa, let alone having been born there. It is a diaspora in support and remembrance of ancestors who were removed from the continent. Its diasporic relationship is also with the continent, rather than with a particular African country. This raises issues about its commitment to the continent – for how long it will last, and whether it will be strong enough to convince that diaspora to engage in the enterprises that the AU has planned for them.

The situation is different for the contemporary members of the African diaspora. This group left voluntarily, and still maintains close ties with the home country and with family members. Also, this group of diasporians supports family members through remittances to pay for school fees, development projects and the like. The group has members who are not only regular visitors back home, but who have also decided to invest back home. This is the group that individual governments target in their diplomacy of the diaspora. Since governments have

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discovered the potential of their own diasporas, some – like Kenya – have begun to harness them in their foreign policy and diplomacy (Mwagiru 2011). Because this is a matter that is being done in the national interests of the different member states, it is not an area that the AU should get into. The organisation is in any case a servant of the member states and should therefore not be seen to be competing with them, especially in areas that member states consider crucial for their own development. If the AU involved itself in the diplomacy of the diaspora targeting the contemporary African diaspora, it would also create conflict of interest problems with the member states, and this would not augur well for their mutual relations.

The content of the AU's diplomacy of the diaspora involves establishing and consolidating regional diaspora networks, holding regional consultative conferences, fostering a closer relationship between the AU and the Caribbean Community (CARICOM), concluding economic partnership agreements with different elements of the diaspora, creating information hubs about diaspora issues throughout the region, and the like. This quite extensive load for this diplomacy however also involves some more non-diplomatic themes and issues (AU 2011).

Although it is not stated directly, it would seem that the AU indeed has in mind the historic diaspora as the platform for its diplomacy of the diaspora. In terms of political cooperation, it intends to appoint diaspora experts (meaning experts from the diaspora) and to give preferential treatment to diaspora populations (AU 2011:4). This kind of positioning can only be contemplated for the historic diaspora. Such positioning cannot work for the contemporary African diaspora because it would raise too many issues and create too many conflicts with which even governments have found it difficult to deal. Were preferential treatment to be offered to the contemporary diaspora, the thorny issue would be raised about whether individuals must first leave their country for them to be offered incentives.

The economic strategy of the AU's diplomacy of the diaspora, to the extent that it focuses on economic partnerships, creating incentives for innovation and entrepreneurship, research and development, and knowledge transfer



(AU 2011:10–11), is a useful platform for diaspora diplomacy, the major tool of which is persuasion. The economic partnerships envisaged require capital, and it is therefore in order to develop facilities to mobilise such capital. However, the issue of financial remittances should be left to the individual governments that deal with their own diasporas. Financial remittances in this context mean payments by members of a diaspora either directly to their families or for individual projects. The historic diaspora cannot send similar remittances since they have no families in the continent. It would also be unwise for the AU to compete with governments over the collection of such remittances. However, there also exist social remittances, which involve the transfer of ideas, values, and norms (Levitt 1998). Given the configuration of the AU's diaspora diplomacy, these are the types of remittance that should be sought in pursuit of AU diaspora diplomacy.

### **Missing links in the AU diaspora diplomacy**

For many analysts in Africa and elsewhere, the diaspora of an African country consists only of those who have migrated *outside* Africa. Those who have gone to work or settled in other African countries are not considered to constitute a diaspora and are classified as migrants, refugees, asylumees, exiles, guest workers and the like. Even otherwise articulate analysts such as Omeje (2007) run into the same problem. He argues that there are three main categories of African diaspora: the descendants of the generations who were removed from Africa through slavery; late colonial and early post-independence emigrants to the west who left in search of education and green pastures; and those more recent ones who left, fleeing from socio-economic decline, wars, persecution and poverty in their countries, and who diversified diasporic destinations by going to destinations like Australia, Eastern Europe, Latin America and Russia (Omeje 2007:97–8). This categorisation does not include those who left their countries and settled in other African countries. These have been characterised, not as members of a diaspora but as intra-African migrants – including voluntary labour, refugees and asylumees in the continent.

It should however not be thought that an African can only be a part of a diaspora if he or she leaves Africa and moves to Europe or to America. The definition of

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diaspora emphasises dispersal and especially the crossing of territorial borders. Once people cross territorial borders, they meet an important criterion for membership of the diaspora. It is not necessary that a person must have crossed continental borders to qualify as a member of the diaspora. And yet this seems to be the dominant trend of thinking amongst those who have not recognised an intra-African diaspora. Besides this, the definition of diaspora does not take into account the financial or economic status of the members of the diaspora.

This same mistake underlies national discourses on the diaspora. In Kenya for example, there has been a lot of discussion and policy movement on the diaspora agenda. But this agenda is hedged by the fact that the diaspora being discussed is that which exists in the United States, Europe, Canada, and countries outside the continent. And yet there is a good number of the Kenyan diaspora in Africa itself, particularly in southern Africa, East Africa (Rwanda and Uganda) and South Sudan. It also seems to be assumed that the much talked about skills that the Kenyan diaspora possesses are skills apparently monopolised by the diaspora in America and Europe and not by the one in southern Africa or the Horn of Africa. This fallacious reasoning is reminiscent of the old colonial attitude that what was white was best.

The AU should not make the same mistake in its diplomacy of the diaspora. In its current practice of diasporic diplomacy, it is evident that it is assumed that the relevant diaspora can only be that which exists outside the borders of the continent. This is clear from the AU's definition of the diaspora as consisting of peoples of African origin living *outside the continent*. This is a fair enough self-limitation. Two things need to be said about it however. Firstly, this limitation of the diaspora that is the subject of AU diplomacy must accommodate to the understanding that the people of African descent living outside the continent are the historical African diaspora, and not the contemporary one. Apart from the reasons given earlier why the AU diaspora diplomacy should only deal with the historic diaspora, it would also be grossly unjust for the AU to choose favourites amongst contemporary African diasporas. It would also be inequitable for the organisation to be seen to be making the claim that it is solely interested in the African diaspora who have crossed the continental borders, and not those who have only crossed territorial but not continental borders.

The second point that needs to be made is that diplomacy of the diaspora such as the one that the AU is practising, should ideally be all-inclusive of the categories of the diaspora. Even if it does not wish for whatever reason to engage with the intra-African diaspora, it nevertheless needs to flag it, so that its diaspora policies can be seen to be inclusive. This is not very difficult to do. The AU deals with the issues of migration, and indeed has a policy on migration in Africa. The addressees of the policy are also the addressees of the content of AU diplomacy of the diaspora. For the sake of completion, this quite important diaspora of the African states requires inclusion – or mention – in the context of AU diasporic diplomacy.

AU diplomacy of the diaspora does not mention, or seem to intend to take account of, the diasporas of other countries that are living in Africa. At first glance, this would appear to be logical since the organisation is interested in the African diaspora. But on a closer examination, this is a big omission in the context of the content and reach of a diplomacy of the diaspora. The point of this contention is that while a country can use its own diaspora to harness relationships with other countries, especially the countries where its diaspora is living, it can also use other countries' diasporas living in its territory to enhance relations with those countries. This is an often forgotten dimension of diaspora relationships. And the AU, in crafting its own diaspora diplomacy also seems to have overlooked it.

Every country – if not most – has what Leonard calls a global diaspora (Leonard 2002:55). That diaspora has a lot of potential for the countries in which it is found. It is a useful tool in the task of building up perceptions about (in this case) Africa, the relevance of the targets it has set for its diplomacy, and of the programmes it wishes its diaspora diplomacy to engage in. This global diaspora comes from different countries. Those different countries and their constituents will learn about projects that the AU is engaging in its diaspora diplomacy. It should also not be forgotten that part of this global diaspora will itself be from the countries where the African diaspora lives; it can thus be a good source of feedback to those countries, and hence to the very diaspora that the AU is trying to capture and do business with. At the same time, diasporas of other countries that have lived in African countries – and come to understand and empathise

with them – are an important resource for diaspora diplomacy. Such people can be used to 'connect' with the African diaspora, many of whose members have never been to Africa, and know little about it.

The relationship between the African diaspora and the AU should not be seen as a one-way street in which the diaspora is encouraged almost unilaterally to engage with the AU and Africa. Members of that diaspora can also be used to filter perceptions in their countries about Africa and the AU. For example, some of the diasporas of African countries are engaged in what Kapur labels 'long-distance nationalism' (Kapur 2003:445). In this, diasporas lobby for their countries, but also sometimes support extremist groups which can have negative effects on their countries of origin. The African diaspora can be used to temper the negative perceptions arising from this kind of reality; and that would be a substantially significant contribution of the African diaspora to the continent.

### **Conclusions**

The entry of the AU into the world of diaspora diplomacy was a long time coming, but a good development. It will contribute to the creation of positive images for the organisation, and for Africa generally. The AU is, however, not the only actor practising diaspora diplomacy. There are other states in the continent like Kenya, Ghana, Eritrea and others that are deeply involved in the practice of this diplomacy. This dual practice of diaspora diplomacy can cause conflicts and misunderstandings, or it can enhance the practice and the benefits of diaspora diplomacy. In order to avoid such conflicts, it would be prudent for two of the three main actors in this type of diplomacy (the other actors are individuals: members of the diaspora, and citizens with whom they interact) to be clear about which aspects of the diplomacy of the diaspora they will conduct.

The diplomacy of the diaspora will be greatly enriched by this division of labour. In this division of labour, the individual states will concentrate on building and consolidating relations with the contemporary African diaspora, which includes their citizens who were dispersed abroad for various reasons. That diplomacy involves not only the collection of financial remittances, but also making room for the involvement of the diaspora in policy and in programme design and implementation of specific items of the agenda of diaspora diplomacy.

On the other hand, the AU will concentrate on building and consolidating relations with the historic African diaspora. Largely, this involves individuals who have not necessarily been to Africa, but who have historic and sentimental ties with the continent, and sometimes with specific countries in the continent. This engagement of the AU's diaspora diplomacy with the historic diaspora will provide the larger picture of diasporic relations and diplomacy, and will inspire and guide member states of the AU as they individually begin engaging in diaspora diplomacy.

If the AU engages with the historical African diaspora – as everything suggests that it intends to do – it will be engaging in a very challenging aspect of diplomacy. Because of the configuration of this diaspora, which is African not by birth but by emotion, it will need much more persuasion than would other diasporas, to contribute and be a part of the development process of the continent. But this diplomacy, with these interlocutors, is even more challenging because it is a diplomacy that will be played right at the frontline of Africa's interactions with international relations; it will also contribute to the discourse of how Africa can shape its international relations agenda. Because of the make-up of the historical African diaspora, it will need to be seriously convinced about the basic viability of this diplomacy. While that will not be easy, its successful completion will prepare the AU for the equally serious business of convincing other actors in the international system that Africa is now a serious interlocutor that, unlike in the past, sees beyond its nose.

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# Between reactive and proactive interventionism: The African Union Peace and Security Council's engagement in the Horn of Africa

*Tim Murithi\**

## **Abstract**

This article will assess the interventionism which the African Union (AU) Peace and Security Council (PSC) has fostered in the Horn of Africa region with particular reference to the Sudan, Somalia, Djibouti, Eritrea, and Kenya. Ten years after the establishment of the AU and eight years after the operationalisation of the PSC, the Union has adopted a stance that can be defined as 'interventionist' as far as peace and security issues in Africa are concerned. This article will assess whether this interventionism has been predicated on a coherent AU policy towards crisis situations, or whether it can be best described as 'reactive interventionism'. This article will thus elaborate on the notion of reactive interventionism. With the onset of more pronounced intra-state conflicts between the period of the 1990s and the present, it has become evident that a policy of intervention is necessary to stem the proliferation of complex emergencies. This is particularly evident in the Horn of Africa. Concomitantly, the PSC has been considerably more engaged with situations in the Horn than in other parts of Africa. This article will argue that while the PSC's interventionism is laudable, the cases of Somalia

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\* Tim Murithi, Ph.D., is Head of Programme: Justice and Reconciliation in Africa at the Institute for Justice and Reconciliation, Cape Town, and Research Fellow at the Centre for African Studies, University of the Free State, Bloemfontein.



and Sudan reveal that it has not been backed up by a genuine commitment by AU member states to ensure and conduct robust peace operations. This reveals that the PSC is beset by a 'reactive' form of interventionism which in many respects is a function of the absence of a proactive and preventive culture of crisis prevention within the AU system and its member states. This article will argue that the PSC needs to make the transition from reactive interventionism towards more proactive interventionism. The article will identify some of the obstacles and challenges that need to be overcome at the strategic level of AU decision making and at the tactical and operational level of implementation in order to ensure that proactive interventionism becomes entrenched in the modus operandi of the PSC and other organs of the AU system.

### **A theory of interventionism**

Intervention theory is used in policy analysis to refer to decision-making problems of intervening effectively in order to achieve desired outcomes (Argyris 1970). Intervention theory addresses the question of when it is desirable to intervene and when it is not appropriate to do so. In this regard, timing is essential to the intervention processes. Intervention theory also discusses and examines the effectiveness of different types of intervention. Effective intervention depends on having the appropriate and useful information. It also assesses how intervention can be sequenced to achieve a maximum impact in a particular context. Certain interventions can be ineffective in addressing a particular problem. It is therefore important to emphasise the link between recipients and interveners. The ultimate responsibility resides with the recipients of the intervention to internalise the goals of the intervention, which usually include the objective of bringing about positive change. In this regard, interventionism is really a process of norm promotion, from the perspective of both the interveners and those who are targets and recipients of intervention.

### **A history of OAU non-interventionism**

On 25 May 1963 the Organisation of African Unity (OAU) was established to advance the cause of Pan-Africanism and promote solidarity and cooperation among Africans (OAU 1963). At the creation of the OAU, its primary challenge

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was to address the scourge of colonialism which persisted in some parts of Africa. Essentially, the OAU sought to end racial discrimination upon which colonialism with its doctrine of racial superiority was based, as well as to assert the right of Africans to control their social, economic and political affairs and achieve the freedom necessary for peace and development. A substantial number of African states had also attained independence in the early 1960s and were faced with the challenge of consolidating their nascent governments.

The OAU succeeded in its primary mission, of course with the help of international actors, of liberating the continent when finally, on 27 April 1994, a new government – based on one person, one vote – came into being in South Africa under the leadership of Nelson Mandela. The OAU however was not as effective in monitoring and policing the affairs of its own member states when it came to issues mentioned earlier such as: violent conflict, political corruption, economic mismanagement, poor governance, lack of human rights, lack of gender equality and lack of poverty eradication. The OAU created a Mechanism for Conflict Prevention, Management and Resolution in Cairo, in 1993. This instrument was ineffective, however, in resolving disputes on the continent. Tragically, the Rwandan genocide which was initiated in April 1994 happened while this mechanism was operational. It was also during this last decade of the twentieth-century that the conflict in Somalia led to the collapse of the state, and the violence in Sierra Leone, Liberia, Angola and the Democratic Republic of the Congo led to the death of millions of Africans. These devastating events illustrated the limitations of the OAU as a framework for conflict resolution. There are of course no guarantees that both the intervener and the referent targets will perceive the norm similarly. The onus will be upon the interveners to in fact inculcate in the recipients the necessity of the norm, which may take time to achieve.

## **The African Peace and Security Architecture and its framework for intervention**

The AU is learning from the lessons of the OAU and has adopted a much more interventionist stance through its legal frameworks and institutions. The AU Peace and Security Council was established in 2004 through the *Protocol*

*relating to the establishment of the African Union Peace and Security Council* (AU 2002). The AU and the PSC's mandate to intervene is also supported by the establishment of an African Standby Force (ASF) by 2010, as stipulated in the Protocol establishing the Council. In addition, a Military Staff Committee will provide advice to the PSC on deployment and security requirements. A Continental Early Warning System (CEWS) will provide analysis which can assist with preventive diplomacy and conflict prevention initiatives. A Panel of the Wise (PoW), composed of distinguished African statesmen and women, has also been operationalised to assess crisis situations and intervene to prevent further escalation of tension.

The ASF is intended to cooperate, where appropriate, with the UN and sub-regional African organisations in conducting peace operations. In effect, the AU will continue to maintain a working relationship with the UN and coordinate the activities of Africa's sub-regional organisations, namely the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD), the Southern African Development Community (SADC), the Economic Community of Central African States (ECASS) and the Arab Maghreb Union (AMU). The ASF will be comprised of five brigades, one from each of Africa's sub-regions: Southern, Eastern, Central, Western and Northern brigades. These brigades will be coordinated either by their affiliate regional economic communities or dedicated regional mechanisms. The ASF can only be effective if there is much closer coordination and cooperation between the AU's defence and foreign affairs ministries, and if a stable source of funding is found for the force. At the operational level, the force needs further development to enhance its capacity to conduct mission planning, budgeting and mission management.

### **The AU Peace and Security Council**

The AU's 15-member PSC is mandated to conduct peacemaking, peacekeeping and peacebuilding. The PSC will have 15 member countries (ten elected for a term of two years and five for a term of three years). The Chairperson of the AU will be assisted by a Commissioner in charge of Peace and Security to provide operational support to the PSC as well as deploy efforts and take the necessary

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steps to prevent, manage and resolve conflicts. The PSC will assess potential crisis situations, send fact-finding missions to trouble spots and be in a position to authorise and legitimise the AU's intervention in internal crisis situations. Article 4(h) of the AU Constitutive Act affirms the right of the Union to intervene in a member state with respect to crisis situations. In specific, article 7(e) of the Protocol on the PSC states that the Council can 'recommend to the Assembly (of Heads of State), ... intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments' (AU 2002:9). This is a major qualitative difference with the Charter of the OAU. With the adoption of these legal provisions, for the first time in the history of Africa, the continental organisation working through an appointed group of states has the authority to intervene in internal situations that might lead to atrocities being committed against minority groups or communities at risk within states.

### **AU PSC interventionism in the Horn of Africa**

Eight years after its inception in 2004, the PSC has adopted a stance that can be defined as 'interventionist' as far as peace and security issues in Africa are concerned. With the onset of more pronounced intra-state conflicts between the period of the 1990s and the present, it has become evident that a policy of intervention is necessary to stem the proliferation of complex emergencies. The need for intervention is evident in the Horn of Africa. Concomitantly, the PSC has been considerably more engaged with situations in the Horn than in other parts of Africa including Darfur, Sudan, Somalia, Djibouti, Eritrea and Kenya.

### **The AU PSC's intervention in Darfur: African Mission in Sudan (AMIS) I**

In February 2003 the Darfur region on the border of eastern Chad and western Sudan was afflicted by violent conflict – initially between the Sudanese government and a pro-government militia also known as the Janjaweed on the one side, and on the other side two rebel movements, the Sudan Liberation

Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) (Mans 2004). The conflict resulted in widespread atrocities committed against civilians and uprooted people from their homes – generating displaced populations. To date there are close to 2.7 million Internally Displaced Persons (IDPs) and another 4.7 million people affected by the conflict and in need of humanitarian assistance. As of early January 2009 only 65 per cent of the affected population was accessible by humanitarian agencies.

Following the violence in the western Darfur region of Sudan, which began with the armed resistance groups, SLA and JEM, attacking government outposts in response to a history of socio-economic and political marginalisation (Cohen 2006:1), the AU in June 2004 deployed a protection force in Darfur, also known as the African Mission in the Sudan (AMIS).

However, the ability of the AU to achieve and fulfil its mission in such a situation would always depend on its capacity to mobilise the political will of its member states. Therefore a political process was also vital in ensuring that there was a bona fide peace to keep. AU-led mediation talks were convened in 2004, which led to a Humanitarian Ceasefire Agreement signed in N'djamena, Chad, on 8 April 2004. Subsequently, the Protocol on the Security Situation in Darfur; the Protocol on the Improvement of the Humanitarian Situation in Darfur; and the Declaration of Principles for the Resolution of the Sudanese Conflict in Darfur were all signed in November 2004.

The initial mandate of AMIS I was to assist the parties in conflict to reach a political settlement. It was also tasked to monitor and observe compliance with the Humanitarian Ceasefire Agreement; undertake confidence building; facilitate the delivery of humanitarian assistance; assist internally displaced persons (IDPs) in their camps and eventually facilitate their repatriation; and promote overall security in Darfur.

AMIS I started with 80 military observers in April 2004. AMIS I was coordinated by the Darfur Integrated Task Force based at the AU headquarters in Addis Ababa and had an operational base in El Fasher, Darfur. AMIS I was deployed with the support of the UN, European Union (EU), North Atlantic Treaty Organisation (NATO), as well as on a bilateral level by the Government of Japan

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and South Korea. The initial Troop Contributing Countries (TCCs) included Gambia, Kenya, Nigeria, Rwanda, South Africa and Senegal. The Civilian Police Contributing Countries were Cameroon, Gambia, Ghana, Mauritania, Nigeria, South Africa and Zambia.

While AMIS presence occasionally deterred violence against civilians it did not entirely eliminate its prevalence across the Darfur region. Indeed, it was incapable of achieving such a feat largely due to its limited mandate and also due to its lack of capacity and adequate resources. Therefore, the AU's monitoring mission left much to be desired and a more robust peacekeeping force was required to effectively dissuade the silent genocide that was unfolding in Darfur (Prunier 2005).

### **Analysis of the failure of AMIS II**

The AU had a rather weak mandate in Darfur to effectively monitor the humanitarian crisis in the region and coordinate efforts to advance the cause of peace. A Technical Assessment Mission was conducted from 10 to 22 March 2005 with the participation of the UN, EU and United States. The mission concluded that AMIS should be strengthened. Therefore, a more enhanced mandate was issued and an expanded AU mission, which included civilian police units to protect refugee camps, was authorised in October 2005. AMIS II consisted of 3 320 personnel including 2 341 military personnel, 450 observers and 815 civilian police personnel. The number of AMIS II personnel increased to 6 170 military personnel and 1 560 civilian police by the end of 2005. AMIS II was similarly mandated to monitor and observe compliance with the ceasefire, provide security for humanitarian relief, and facilitate the return of IDPs.

At the same time, the AU's peacemaking initiative in Abuja, Nigeria, under the tutelage of the former Secretary-General of the OAU, Dr Salim Ahmed Salim, led to the signing of the Darfur Peace Agreement (DPA). On 5 May 2006 the DPA was signed in Abuja, Nigeria, by the Sudanese government and two factions of the SLA. Other factions of the SLA (Minni Minnawi and Free Wing) as well as the other armed resistance group, the JEM, refused to sign the agreement. This meant that the DPA was by no means a comprehensive peace agreement in

the mould of the South Sudan agreement. This also indicated that the conflict was not over and that there was no durable ceasefire. Subsequently, the various insurgencies and armed resistance groups began to fight each other, and the situation deteriorated into a military, political and diplomatic conundrum.

The AMIS operation was due to wind down and be replaced by a more robust UN peacekeeping operation. However, the Sudanese government had systematically rejected efforts to convert the AU mission into a UN mission and requested the AMIS mission to terminate its operations by 30 September 2006. The stubborn stance adopted by the Sudanese government was based on an appeal to the strictures of sovereignty and the principle of non-intervention in the affairs of member states. Therefore the AU mission continued to struggle to maintain security in the region.

The AU mission floundered primarily because the Sudanese government was obstructionist and prevented its effective functioning. The Government of Sudan was quite adept at manoeuvring against the establishment of a UN peacekeeping force on its territory. The Khartoum regime under the tutelage of President Omar Al-Bashir categorically stated that the presence of a UN force would be tantamount to the recolonisation of Sudan. However, AMIS I and II also failed to fulfil their mandate because they had insufficient troops, and inadequate equipment and training.

The inefficacy of AMIS was also due to the fact that since the conflict had begun in 2003, the situation in Darfur has descended into confusion with the increasing factionalisation of the initial armed resistance groups. The key armed factions include the Sudanese Liberation Army (SLA), the SLA factions Abdul Wahid, Minni Minnawi, Free Wing, and Unity, and the United Resistance Front together with the Justice Equality Movement Collective.

## **The trajectory of UN engagement in Darfur**

UN Security Council Resolution 1706 requested ‘the Secretary-General to take the necessary steps to strengthen AMIS through the use of existing and additional UN resources with a view to transition to a United Nations operation in Darfur’ (UNSC 2006: para. 11). In the lead up to the deployment of the UN-African Union Mission in Darfur (UNAMID), the UN Department of Peacekeeping

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Operations (DPKO) was already supporting AMIS through its UN Assistance Cell in Addis Ababa, Ethiopia, the AU headquarters. More specifically, DPKO and the AU's Peace Support Operations Division had signed an agreement to develop a joint action plan. In July 2006, the UN created a dedicated integrated capacity to oversee the implementation of this action plan. This integrated capacity will involve the 'collocation' of UN staff within the AU Commission in Addis Ababa. This innovative approach of embedding UN staff within the operational structures of a regional organisation represented an attempt at forging a hybrid partnership. The UN was at pains to reaffirm that this was not an asymmetrical partnership, but an entirely new arrangement, established through the mutual consent of both parties. Chapter VIII of the UN Charter is not explicit on the possibility of establishing such a hybrid partnership, and there is significant leeway to operationalise such a relationship if both the UN and the regional organisation are compliant. Article 52 in fact states that 'the Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council'. Thereby a legal basis for embedding UN staff within the AU was created.

As far as the efforts to deploy a UN peace operation was concerned, 'the Sudanese government followed a strategy of obstructionism, initially taking advantage of the language of Resolution 1706, which "invites the consent" of Khartoum as a precondition for deploying UN peacekeepers' (Gowan 2008:461). The Sudanese regime's intransigence meant that a UN mission which was supposed to have been deployed in 2006 was ultimately delayed. In effect, 'Sudanese obstruction has demonstrated how easy it was to manipulate and undermine the UN's mandate and operational machinery' (Gowan 2008:461). The Sudanese government's relative success in disrupting the peacekeeping system has provided succour for would-be intransigent regimes which will undoubtedly deploy similar tactics in the future.

### **Deployment of the joint AU-UN hybrid operation in Darfur**

Through persistence in addressing and overcoming the objections put forward by the Sudanese government, the UN Security Council Resolution



1769 officially authorised the deployment of UNAMID in July 2007. The plan was that UNAMID would incorporate AMIS personnel, but would also be buttressed by additional UN heavy and light support equipment and machinery. At full strength UNAMID was expected to have 19 555 military personnel including 3 772 police and 320 observers. The total strength of UNAMID uniformed personnel rose to 10 537, including 8 569 military personnel (8 142 troops, 285 staff officers, 113 military observers and 29 liaison officers), and 1 948 police personnel (1 808 individual police officers and one formed police unit of 140 personnel) (UN 2007:1). The mission had also recruited 2 564 civilian staff (including 645 international staff, 1 704 national staff and 215 UN volunteers). A full staff complement has not yet been recruited in Darfur, and UNAMID expected to increase its numbers to 14 823 personnel, which is the equivalent of 60 per cent of the total authorised staff complement (UN 2009:2). Staff were drawn from Bangladesh, China, Egypt, Ethiopia, Gambia, Kenya, Nigeria, Rwanda, Senegal and South Africa. Its anticipated budget was US\$ 1.7 billion per year, which is the largest in the history of UN peacekeeping operations.

Despite the security challenges, UNAMID conducted confidence-building patrols, provided convoy protection and facilitated humanitarian access. UNAMID in partnership with 'a number of UN funds and programmes, conducted a series of training and capacity building workshops for 119 members of the rebel police forces, 90 sheikhs and *umdas* (traditional elders) and 295 internally displaced persons on the subjects of human rights, gender, and community-policing' (UN 2007:8). In addition, the Civil Affairs section within UNAMID engaged 'civil society and women's groups, the local administration, the academic community, and other segments of the Darfur society on the peace process and local conflict resolution initiatives' (UN 2007:8).

As far as the political process is concerned, a new AU-UN Joint Chief Mediator for Darfur, Djibrill Bassolé, was appointed in August 2008. Bassolé was charged with revitalising the stalled mediation process and crafting a political solution to the crisis in Darfur. The UNAMID efforts could become completely reversed if the violence persisted and escalated. Specifically, violent confrontation has been ongoing between the Government of Sudan troops and the government-backed

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militia also known as the Janjaweed. There was sporadic violence in northern Darfur where the Sudanese regime was engaging the SLA-Abdul Wahid faction. On 25 August 2008, Government security forces surrounded an IDPs camp in Kalma which accommodated approximately 80 000 people, ostensibly to search for weapons and other contraband, and opened fire killing 33 IDPs and wounding 108, including 38 women and 25 children. UNAMID was eventually able to access the camp and evacuate the wounded (UN 2009:11).

### **Challenges facing UNAMID**

UNAMID was confronted by problems similar to those that beset AMIS I and AMIS II. Since July 2008 Darfur has experienced a deterioration of the security situation. In particular, the violence 'included high levels of banditry, occasional military engagements, ethnic clashes and deadly attacks on UNAMID forces on 8 July which resulted in the deaths of five peacekeepers' (UN 2009:7). The Government of Sudan is continuing to send sorties of aerial bombardments against parts of Darfur and conduct military offensives which are resulting in the death of civilians. Gender-based violence remains a common occurrence in the region. In addition, humanitarian workers are being abducted and are reporting incidents of violence. The food security situation in the region remains precarious.

In addition, UNAMID faces key challenges in terms of its ability to transport personnel and equipment using ground transportation which is still limited in capacity. In addition, 'the environment of heightened insecurity had a direct impact on UNAMID efforts to move contingent-owned equipment into Darfur' (UN 2009:3). Air transportation is being provided under the auspices of the group known as the Friends of UNAMID, which is dominated by the logistical support from the United States government. The Friends of UNAMID have specifically been assisting with the airlifting of troops and contingent-owned equipment directly from troop-contributing countries into Darfur. According to the UN Secretary-General, Ban Ki-moon, 'UNAMID, despite its broad mandate for the protection of civilians and assistance to peace implementation, is not designed to create a sustainable solution to the Darfur crisis. That is the responsibility of the parties to the conflict' (UN 2008:14).

On 4 March 2009, the Prosecutor of the International Criminal Court (ICC) issued an arrest warrant against President Omar Al-Bashir of Sudan for war crimes and crimes against humanity, in line with the mandate of the body as stipulated in the Rome Statute. This indictment followed a request by the UN Security Council to assess whether war crimes had been committed in Darfur. Almost immediately the AU PSC convened on 5 March 2009 and requested the UN Security Council to defer and effectively postpone any ICC interventions in Darfur, ostensibly not to affect the ongoing peacemaking processes in the region. On 3 July 2009, the AU's Thirteenth Annual Summit of Heads of State and Government met in Sirte, Libya, and decided not to cooperate with the ICC in facilitating the arrest of Bashir. This strategy was questioned by Botswana and subsequently South Africa, both of whom cited their obligations towards the Rome Statute. The ramifications of this indictment of the operational effectiveness of the Joint AU and UN Hybrid Mission in terms of its impact on working relations with the Government of Sudan are yet to be quantified. The situation in Darfur therefore remains fairly precarious. The stand-off between the AU and the ICC persists, with the Union making the argument that it prefers to have a sequenced approach in which the requirements for peace are met prior to pursuing the demands of justice.

### **AU PSC peace interventions in Somalia**

The collapse of the central government in Somalia in 1991 came after decades of dictatorial rule by Siad Barre and three years of civil war. The coalition which succeeded Barre became embroiled in its own internal strife, however, which led to increasing factionalisation in the country. The UN intervened to address the insecurity in the country with the deployment of the UN Operation in Somalia (UNOSOM) in May 1992. The feuding clans made it virtually impossible for UNOSOM to deploy effectively and uphold its mandate. Consequently, the UN drew upon Chapter VII of its Charter and deployed what was thought to be a more robust mission in the form of the Unified Task Force (UNITAF), ostensibly led by the United States of America (USA) and dubbed 'Operation Restore Hope'. UNITAF was to set the scene for another UN peacekeeping operation, known as UNOSOM II, which was tasked with undertaking disarmament of the

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warring factions as well as peacebuilding. However, the obstacles encountered by UNOSOM I resurfaced and the mission gradually became discredited and withdrew entirely from Somalia in 1995.

After 21 years (1991–2012) of difficult peacemaking and peacekeeping initiatives, Somalia is still in a state of insecurity. The persistence of violence in Somalia has caused tremendous damage and loss of life and prevented effective humanitarian intervention and relief work. In terms of regional security the continuing instability in Somalia has created a fertile ground for a range of armed militia, which are often clan-based, to wield significant power and control over sections of the country. Regional and international security has been affected with the spill-over of refugees and armed militia into neighbouring countries, particularly Ethiopia and Kenya, as well as the hijacking of sea-faring vessels in the Indian Ocean.

A peacemaking initiative by the sub-regional organisation, the Intergovernmental Authority on Development (IGAD), led to the signing of an agreement in October 2004, in Nairobi, Kenya, between the main Somali clans. The objective was to establish Transitional Federal Institutions (TFIs), including a Transitional Federal Government (TFG), which would strive to re-establish peace in the country. On 14 October 2004, the IGAD-led initiative laid the foundations for the election by members of the Somali Transitional Federal Parliament of President Abdullahi Yusuf Ahmed as head of the TFG. The TFG subsequently went on to draft the Transitional Federal Charter (TFC) which was adopted in November 2004. While a number of Western governments recognised the TFG as legitimate, it has yet to receive universal acclaim within Somalia's borders. Currently, the TFG governs from Baidoa, which is temporarily serving as the administrative capital of Somalia.

### **IGASOM's false start**

In February 2005, the AU authorised IGAD to send a peace mission to Somalia to provide security for the TFG while it established itself in the country. In March 2005, the IGAD defence chiefs adopted a plan to deploy 10 000 peacekeepers to Somalia in April of the same year. The idea was to utilise the peacekeeping

mission to oversee the voluntary disarmament of the militia. However, this plan was misconceived, largely because the IGAD member states lacked the necessary political will to see through the initiative. In addition, IGAD at the time did not possess an in-house capacity and framework to rapidly deploy peacekeepers to member states. Above all, IGAD's Charter did not have a provision for the deployment of a peace operation. Furthermore, there was no consensus among the various Somali factions about the appropriateness of a peacekeeping force in the country. However, on 6 December 2006, UN Security Council Resolution 1725 authorised 'IGAD and Member States of the AU to establish a protection and training mission in Somalia' which was dubbed IGASOM. IGASOM, however, was never deployed to Somalia for all of the reasons stated above.

## **The African Union Mission in Somalia**

Following a Report of the Chairperson of the Commission on the situation in Somalia and the evaluation and recommendations of the AU Military Staff Committee, the AU Peace and Security Council decided to authorise the deployment of the AU Mission in Somalia (AMISOM) on 19 January 2007, for an initial period of 6 months, and with the mandate to:

1. provide support for the TFIs (Transitional Federal Institutions) in their efforts towards stabilisation of the situation in the country and the furtherance of dialogue and reconciliation;
2. facilitate the provision of humanitarian assistance; and
3. create conducive conditions for long-term stabilisation, reconstruction and development in Somalia.

On 20 February 2007, the UN Security Council adopted SC Resolution 1744, which further legitimised AMISOM's deployment. The UN is supporting AMISOM through an assistance cell to the AU in Addis Ababa primarily with the provision of military planners. The UN Security Council met with the AU Peace and Security Council on 16 June 2007 and discussed the modalities for deeper collaboration. In particular, both bodies discussed the importance of stabilising Somalia.

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AMISOM was officially launched in March 2007 with 1 700 Ugandan troops. Burundi also deployed troops to bolster AMISOM. Towards the end of 2008, Nigeria pledged to deploy additional troops to buttress the Ugandan presence. Ghana and Malawi have also pledged to deploy troops to AMISOM, but this has not yet materialised, and AMISOM is yet to reach its authorised strength of nine battalions. The PSC decision indicated that 'the concept of logistic support for AMISOM shall be based on the model of the African Union Mission in Burundi (AMIB)' (AU PSC 2007: para 9). This effectively meant that the AU Commission would 'mobilize logistical support for the [Troop Contributing Countries] TCC's, as well as, funding from AU member states and partners to ensure that TCC's are reimbursed for the costs incurred in the course of their deployment, based on AU practice' (AU PSC 2007: para. 9).

AMISOM initially attempted to stabilise parts of Mogadishu and Baidoa in which it established its operations. AMISOM also sought to create the security conditions to enable the complete withdrawal of Ethiopian troops from Somalia. AMISOM further attempted to support national dialogue and reconciliation. The European Union (EU) initially supported the deployment of AMISOM with 15 million Euros as well as providing planning assistance to several potential troop-contributing countries and logistical support for the AU military cell in Addis Ababa.

Ethiopia invaded Somalia in 2006 with a view to buttressing the support for the fledgling Transitional Federal Institutions. This only inspired local armed militia to emerge to confront this perceived occupation, which further fuelled instability and heightened the level of instability in the country. In January 2009, Ethiopia withdrew its 3 000 troops from Somalia. In addition, in December 2008, President Abdullahi Yusuf resigned, stating that Somalia had been overrun by armed militia and that he could not legitimately exercise power or control, which are key attributes for a state that claims to have sovereignty over a particular territory. The multifarious groupings of insurgents have effectively assumed control of most of southern Somalia outside the capital Mogadishu and Baidoa, where the parliament sits. AMISOM troops have therefore been essentially restricted to their barracks and were unable to effectuate any significant transformation in the country in the absence of political consensus among the

warring factions on how to reconstitute Somalia. A communiqué issued by the AU Peace and Security Council at its 163<sup>rd</sup> meeting held at a ministerial level, on 22 December 2008, condemned ‘all acts of violence perpetrated against civilians and humanitarian workers, in violation of international humanitarian law, as well as attacks on AMISOM personnel and positions’ (AU PSC 2008b: para. 9). In the intervening period, the AU PSC has continued to review the AMISOM rules of engagement with a view to enhancing its response mechanisms, so as to ensure the safety of its personnel, equipment, key installations as well as provide effective support to the TFG. On 22 May 2009, the AU PSC ‘condemned the aggression perpetrated against the Transitional Federal Government of Somalia and the civilian population of Mogadishu and other parts of Somalia by armed groups, including foreign elements, bent on undermining the peace and reconciliation process as well as regional stability’ (AU PSC 2009: para. 3). The AU PSC also requested the UN Security Council to impose ‘a no fly zone and blockade of seaports, to prevent entry of foreign elements into Somalia’ and ‘to impose sanctions against all those foreign actors, both within and outside the region, especially Eritrea, providing support to the armed groups’ (AU PSC 2009: para. 5). The country today remains on a precarious footing with no central sovereign authority or the local will and means to consolidate any form of authority.

## **AU PSC intervention in Djibouti-Eritrea**

In February 2008, Eritrean troops took up military positions in Ras Doumeria along its border with Djibouti. Ostensibly, Eritrea was challenging the colonial demarcation of the 109-kilometer border between the two countries. On 10 June 2008, Eritrea undertook a military incursion into Djibouti’s internationally recognised border. Djibouti took this incursion as a threat to its peace and security. On 11 June 2008, Djibouti sent a letter to the AU PSC requesting ‘the convening of a meeting of the Council as a matter of urgency ... to put an end to the aggression by the Eritrean forces’. The AU PSC was quick to condemn Eritrea’s military action against Djibouti when it met at the level of Heads of State and Government (AU PSC 2008a). The AU PSC was supported by the UN Security Council in its efforts to resolve the resolution of the crisis between the two countries (UN Security Council 2008).

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This crisis appears to have been precipitated by Djibouti's role in hosting Somali actors who were working to find a resolution to the internal instability in their country. The Eritrean government was openly against the presence of the TFG and AMISOM in Somalia. The Eritrean Ministry of Information had in the past issued a statement in which it questioned the legitimacy of 'the so-called illegal "Transitional Government" imposed on the Somali people' (AU PSC 2008a). Eritrea has actively been supporting insurgent armed groups in Somalia who are opposed to the presence of the TFG, which has earned it international condemnation. Therefore, Eritrea considers any efforts to normalise the existence of the TFG as an affront to its own security, hence its aggressive posture towards Djibouti, as well as other countries in the region which support the transitional Somali government.

The AU's intervention relating to the tension between Djibouti and Eritrea has been fraught with challenges. This is primarily due to the fact that the relationship between Eritrea and Ethiopia is also tense and unresolved. In addition, Eritrea does not recognise the authority of the AU PSC and prefers to work through the UN system. The tension between the two countries has since decreased, but this inter-locking conflict system in the Horn of Africa, in which neighbouring countries adopt aggressive postures against each other, continues to pose a clear and present danger to the peace and security of the whole region.

### **AU PSC intervention in Kenya**

Following a contested presidential election in 2007, Kenya witnessed a widespread outbreak of political violence which led to the death of approximately 1 300 people and the internal displacement of approximately 500 000 citizens. The heavily contested election of December 2007 triggered the violence over a period of about six weeks, during which the AU operationalised an intervention to stem the escalation of violence. The former President John Kuffuor of Ghana, who was the then Chairman of the AU Assembly of Heads of State and Government, utilised his office to attempt to initiate a mediation process between the disputing political formations of the incumbent President Mwai Kibaki of the Party of National Unity (PNU) and those of the contender, Raila Odinga of the Orange Democratic Movement (ODM). Kuffuor's initial attempt to mediate



was rebuffed by the parties. However, as a way forward, Kuffuor convinced the AU to establish a Panel of Eminent African Personalities, led by Kofi Annan, the former Secretary-General of the UN, and including former President of Tanzania, Benjamin Mkapa, and Madame Graça Machel, a former leader within the Mozambican freedom movement FRELIMO. The AU PSC endorsed the activities of this Eminent Panel, which was supported by the UN, and in the intervening period of political violence managed to mediate a peace agreement between the parties known as the Kenya National Dialogue and Reconciliation Agreement, which was signed on 28 February 2008.

This Kenyan mediation remains one of the few success stories of an AU-constituted peacemaking intervention. It is however worthwhile to note that the intervention occurred after the escalation of the crisis rather than before. The Kenyan Agreement provided the platform for the establishment of a coalition government which will govern until 2013, when the next round of elections will be convened. The lack of implementation of some of the provisions of the Kenya National Dialogue and Reconciliation Agreement means that the necessary post-conflict peacebuilding processes have not yet taken sufficient root in the country. This does not augur well for the forthcoming elections in 2013, since similar contestations might arise and be utilised by the politicians to polarise the electorate. The AU Eminent Panel continues its monitoring role in the implementation of the National Accord. The PSC's role in this regard is largely a supportive one. However, the Council can raise concerns if the transitional process does not seem to be moving forward.

### **Contextualising the reactive interventionism of the AU PSC**

Despite these interventions in the Horn of Africa, we can question whether the PSC's interventions have been predicated on a coherent preventive AU policy towards crisis situations, or whether it can be best described as 'reactive interventionism'. While the AU has the mandate within the PSC Protocol to prevent the outbreak and escalation of violent conflict, it has, in all of its interventions in the Horn of Africa and elsewhere across the continent, only intervened after the unnecessary escalation of tension and violence. These interventions have revealed that the AU PSC is beset by a 'reactive' form

of interventionism. In all instances, the AU PSC only became involved after the crises had escalated beyond a point where intervention became inevitable. It was indeed *reacting* to situations rather than pre-empting them and being proactive.

### **The limits of the reactive interventionism and the case for proactive interventionism**

While the AU PSC's interventionism is laudable, the cases of Darfur, Somalia, Djibouti, Eritrea and Kenya reveal that it has not been backed up by a genuine commitment of AU member states to ensure and conduct robust conflict prevention and peace operations. The AU PSC's reactive interventionism is a function of the absence of a proactive and preventive culture of crisis prevention within the AU system and its member states. The PSC is often encumbered by political considerations of AU member states, which is one of the reasons why it is ineffectual in achieving proactive interventionism. As experiences in the Horn of Africa illustrate, the AU is beset by a 'Fire Brigade' approach to security policy. This means that the PSC and the wider AU will always be one step behind an emerging crisis anywhere on the continent, and this does not augur well for the safety and security of African citizens who are caught up in conflict situations.

The PSC therefore needs to make the transition from reactive interventionism to more proactive interventionism. The AU has a raft of institutions that can enable it to undertake proactive interventionism, so in this regard it does not need to establish any new institutions. The PSC is but one of these institutional frameworks. Another is the AU Continental Early Warning System, which is designed to provide timely information to the African Peace and Security Architecture.

### **Institutionalising proactive interventionism: Panel of the Wise and preventive diplomacy**

The Panel of the Wise, constituted under the terms of article 11 of the Protocol Relating to the Establishment of the Peace and Security Council of the AU, has to date been underutilised. It can play an important role in complementing the work of the PSC. In particular, the Panel of the Wise does have a mandate for

proactive interventionism. This Protocol (AU 2002: article 11, paragraph 1) stipulates that the Panel of the Wise has the mandate ‘to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention.’ Specifically, according to article 11, paragraph 3, the Panel of the Wise has the mandate to ‘advise the Peace and Security Council and the Chairperson of the AU Commission on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa’. In addition, article 11, paragraph 4, stipulates that ‘at its own initiative, the Panel of the Wise shall undertake such action deemed appropriate to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission for the prevention of conflict’. This endows the Panel of the Wise with the authority to facilitate and mediate potential or ongoing disputes on its own volition.

There is no question as to whether the Panel of the Wise can add value to the initiatives of the AU Peace and Security Council and/or the Chairperson of the Commission, and contribute effectively to conflict prevention and resolution. Unlike the PSC, the Panel is not politically encumbered and therefore has the remit to genuinely engage in preventive diplomacy at an early stage. The Panel Modalities clearly stipulate that it has the independence to pursue any conflict situation that it believes warrants its attention. However, the Panel will confront some political obstacles that typically affect the work of conflict prevention frameworks. Currently, the role of the Panel of the Wise has been confined to conducting studies on thematic issues pertaining to peacemaking, governance and the rule of law. This is, however, not the function that was envisaged for the Panel of the Wise in the Protocol establishing the AU Peace and Security Council. This limiting role for the Panel has to be addressed by the leadership of the AU Commission. Therefore, the importance of ensuring political buy-in from the rest of the AU Peace and Security Architecture, as well as AU member states, is absolutely vital for the efficacy of the Panel of the Wise. In practice, this means that the Panel of the Wise will need to be endowed with its own independent secretariat, ideally reporting only in a nominal sense to the AU PSC and the Office of the Chairperson of the AU Commission. In addition, this set-up will require an approach predicated on system-wide coordination of the various structures

and institutions of the African Peace and Security Architecture. Currently, the Panel is embedded in the AU Directorate of Peace and Security which means that its activities are coordinated to ensure that they do not infringe upon the political sensitivities which the Directorate has to take into consideration in its work. In the absence of system-wide coordination there is a very real danger that the activities of the Panel will be routinely undermined. A renewed role of the Panel of the Wise will enable the AU to entrench a culture of prevention and institutionalise proactive interventionism within the AU system. Ultimately, a pragmatic appreciation of the nexus between preventing conflicts, making peace once conflicts have escalated, and keeping peace following agreements will determine how effective the Panel of the Wise will be.

### **Obstacles and challenges to proactive interventionism in the Horn of Africa**

The main obstacles and challenges facing a transition towards proactive interventionism are predicated on the fact that not all of Africa's heads of state and government are taking the AU system seriously. The norms and values that they have signed up to should be enough to encourage them to change behaviour. However, many leaders are behaving as though the AU does not exist. They continue to commit human rights atrocities, which form the basis for conflict escalation, with impunity. In terms of the future prospects for the AU, the organisation has all the necessary policy institutions to function as an effective framework for conflict resolution in Africa. It is necessary to mobilise the political will, at the level of African leaders, to exert peer pressure on fellow leaders, and at the level of citizens, to hold African governments to account to the principles, norms and values of human rights and democratic governance that they have signed up to. At the tactical and operational level of implementation of the norms, institutions and structures of the AU, the relevant stakeholders have to ensure that they uphold the provisions stipulated in the PSC Protocol. This is vital in order to ensure that proactive interventionism becomes entrenched in the modus operandi of the PSC and other organs of the AU system.

## Conclusion

Ten years since its establishment, the AU has adopted a stance that can be defined as 'interventionist' as far as peace and security issues in Africa are concerned. While the AU PSC's interventionism is laudable, the cases of Somalia and Sudan reveal that member states of the Union have not always committed sufficient resources to ensure and conduct robust peace operations. Clearly, the ideals of Pan-Africanism and the objectives of the AU as a framework for intervention to prevent and effectively manage conflict will only be achieved if there is the genuine political will to do so.

In the final analysis, the AU has made practical efforts to intervene to resolve conflicts by adopting a posture of non-indifference (AU 2005). Its efforts in Darfur, South Sudan, Somalia, Djibouti, Eritrea, and Kenya attest to this. The major problem facing the AU is the lack of integrity among some of the leaders of African countries who have committed themselves to principles, norms and values of human rights and democratic governance, but continue to practice suppression, dominion and exploitation of their own people. Therefore, there is the lingering legacy of the paradigm of non-intervention in the affairs of member states.

However, proactive interventionism can only succeed if African citizens are also empowered to contribute to this process. An uninformed population is easy to manipulate, and so a key strategy has to be to build the capacity of Africans to know how to address the challenges that confront them. This is the challenge of education and skills training in conflict prevention and proactive interventionism through Pan-African and international partnerships. These partnerships and exchanges could range from collaboration with universities and educational institutions in Africa to collaboration with governments and civil society on issues as peace and civic education, and development management. Cultural exchanges could also be highlighted and the richness of African cultural traditions brought to the fore. In particular, the AU can enhance its proactive interventionism by incorporating indigenous approaches to peacebuilding in its strategy for promoting peace and security.

Proactive interventionism will be systematically undermined by unprincipled and corrupt leadership in Africa. This issue has to be addressed if the AU's PSC is

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to offer a genuine hope to African people. The conundrum lies in the fact that the people who are best placed to influence African leaders are the African leaders themselves – working in collaboration with each other. The PSC is effectively mandated to serve as the instrument of collective security to pressurise African leaders to uphold the principles that they have signed up to. Yet the continent continues to witness African leaders remaining silent in the face of atrocities that are being committed against African people.

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# The African Union Peace and Security mechanism's crawl from design to reality: Was the Libyan crisis a depiction of severe limitations?

*Anyway Sithole\**

## **Abstract**

The formation of the Organisation of African Unity (OAU) on the 25<sup>th</sup> of May 1963 gave hope that African countries would unite in eradicating colonialism as well as facilitating economic and social development. Furthermore, the establishment of the Mechanism for Conflict Prevention, Management and Resolution in 1993 ensured that an institutional structure for the maintenance of peace and security existed on the continent. However, the OAU largely failed to address the challenges that the continent faced and this led to calls for the OAU's transmutation into the African Union (AU). The establishment of the AU on the 9<sup>th</sup> of July 2002 was thus greeted with high levels of optimism and euphoria, and the expectation that the continental body would now fully tackle the problems on the continent. An important development was the formation of the Peace and Security Council (PSC) on the 25<sup>th</sup> of May 2004, as main component of the architecture through which peace and security

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\* Anyway Sithole is a junior research Fellow at ACCORD. He holds a Master of Science (M.Sc.) in International Relations from the University of Zimbabwe and is currently in his final year of study at Nelson Mandela Metropolitan University in South Africa where he is doing his second master's degree, an M.Phil. in Conflict Transformation and Management.



in Africa were hopefully going to be achieved. This development presented an opportunity for the further institutionalisation of Pan-African ideals, with the hope that Africa would forge even closer unity. However, at present, the AU PSC continues to experience severe challenges, some of them inherent in the organisational structure of the continental body while some are externally induced. Some of these limitations include lack of unity of purpose as well as of political will among member states to deal with the conflicts bedevilling the African continent – as evidenced by developments during the Arab Spring. What transpired in Libya in 2011 was a clear indication of the slow evolution of AU ideals, a situation which was further compounded by the intervention and interference by some members of the North Atlantic Treaty Organisation (NATO), under the aegis of the United Nations (UN) and the pretext of the ‘Responsibility to Protect’.

## **Introduction**

The inauguration of the OAU on the 25<sup>th</sup> of May 1963 carried hopes and aspirations of Africa’s people for an independent, peaceful and prosperous continent. It represented the genesis and institutionalisation of Pan-African ideals. Although the establishment of the OAU’s Mechanism for Conflict Prevention, Management and Resolution in 1993 at the Cairo Summit symbolised the existence of an institutional structure for the maintenance of peace and security on the continent, the OAU failed dismally in its efforts to eradicate conflicts across the continent. Some of the crucial factors which led to the OAU’s failure to bring peace across the continent included such provisions within its Charter as Articles 2(c) and 3(c) which emphasised non-interference in internal affairs of member states, an approach which translated into non-action during periods of turmoil. The Charter contained the provision to defend the sovereignty, territorial integrity and independence of member states, an idea which was later translated into the norm of non-intervention. Key organs of the OAU, which included the Mechanism for Conflict Prevention, Management and Resolution, could only intervene in a conflict situation if invited by the parties involved (Makinda and Okumu 2008). Regrettably, due to religious adherence to this doctrine of non-intervention, the OAU became a silent observer to the

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atrocities committed by some of its member states. The conflict situation which continued to prevail across many parts of Africa was typified by dereliction of responsibility by the continent's collective leadership. Africa witnessed unprecedented violence during the same decade that the OAU established the mechanism to prevent, manage and resolve conflicts. As a result, the need arose among African leaders to forge even closer unity on the continent and adopt a project of regional integration. The AU project was then born in Sirte, Libya, in 1999. The AU's Constitutive Act was subsequently signed in Lomé, Togo, on 11 July 2000 (Gebrewold 2010). The official inauguration took place in July 2002 in Durban, South Africa.

The emergence of the AU was received with much excitement. There were also great expectations of the AU's proposals for innovations which were anticipated to take it beyond the limited achievements of its predecessor, the OAU. In the AU's rather complex institutional framework, there was the Peace and Security Council (PSC) which was officially launched on the 25<sup>th</sup> of May 2004. As articulated in its founding Protocol, the AU PSC's primary objective is to promote peace, security and stability in Africa in order to guarantee the protection and preservation of life and property, the well-being of the African people and the environment, as well as the creation of conditions conducive to sustainable development. The leading light of the continental security architecture was, and remains, the aspiration for a home-grown (African) approach to finding lasting methods of conflict prevention, and peace and security promotion in a continent riddled by conflicts (Engel and Porto 2010). That was embodied in the concept of 'African solutions to African problems'. However, the recent developments raise questions regarding the extent to which the AU has lived up to expectations. The developments in Libya in 2011 point to institutional weaknesses similar to those which beset the OAU, and this raises doubts as to the continental body's potential to achieve the envisaged 'African solutions to African problems' amid indications of being undermined by various other factors and forces. In the case of Libya, the United States of America (US), Britain, France, Belgium, Canada, Denmark, Italy, with the support of the Netherlands, Spain and Turkey, all under the banner of NATO, 'abused' the UN provisions and undermined the AU's ambitious efforts at finding an amicable and lasting solution to the Libyan crisis.

As highlighted by the then UN Secretary-General, Kofi Annan, in his message during the ceremony to officially launch the PSC, the establishment of the PSC meant that the AU had crossed yet another significant threshold in its quest to promote lasting peace and stability, strengthen democratic institutions and support sustainable development throughout Africa. Annan added that the AU PSC was a potentially powerful tool for the prevention, management and resolution of violent conflict and that the wise counsel and vigorous diplomacy of the AU members was going to be crucial in guiding the continent through the challenges of instability and economic stagnation to the calmer situations of peace and development. However, the question remains whether the PSC has evolved into a formidable and effective structure capable of eradicating conflicts on the African continent.

This article, therefore, examines how the AU, through the PSC, handled the Libyan crisis in its (the AU's) quest to effectively manage and promote peace and security. This comes against the backdrop of perpetual failure to eradicate numerous other conflicts which continue to rage across the continent. However, it appears a bit too early to pass a definitive judgment on the AU's peace operations since the paradigm shift in attitudes that it is attempting to bring about and the institutions that it has developed to do so, are at times undermined by other factors and, therefore, the relatively new security architecture might need to be given the opportunity to work.

### **Democracy and governance issues in Libya: The genesis of the uprising**

For the most part, Arab countries had managed to stay away from the turmoil that has been affecting most parts of Sub-Saharan Africa (Hassouna 2001). However, with the passage of time, an unexpected wave of popular protests, which later became known as the 'Arab Spring', broke out in North Africa towards the end of 2010. The principal causes of the uprisings, just as in other countries on the continent, included decades-long dictatorships, government corruption, and lack of civil and political rights, among other issues. The situation where some sections of the people within some countries are oppressed and some leaders fail

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to respect the fundamental human rights set forth by the AU's Human Rights Charter, has always had high chances of triggering protests. Starting with the fall of the Presidents of Tunisia and Egypt as a result of peaceful protests, the wave spread to Libya where it subsequently turned violent. The revolt against Gaddafi's regime started as a wave of protests, especially in Benghazi in the eastern part of Libya around mid-February 2011, and later spread across the country. However, the protests escalated/degenerated into civil war across the country after government troops loyal to Gaddafi descended heavily on demonstrators and fired on them.

The history of Libya has always been controversial if compared with Western models of governance and democracy. Assessing Gaddafi's rule over 42 years from the time he assumed power in a coup in 1969 reveals many appalling deficiencies in governance and democracy. The Gaddafi regime lacked transparency and had an arbitrary nature of policy making. The system of governance also had formidable and effective organs of coercion which managed to overcome a multiplicity of challenges, creating a perceivably stable, but not democratic society (Martinez 2007). Gaddafi's heavy-handed approach in political and governance issues over the four decades of political marginalisation and oppression antagonised quite a sizeable number of Libyans. Although Gaddafi did fairly well in terms of socio-economic development, his reign was renowned for repression of political dissent as well as the formation of a personality cult around Gaddafi as the enlightened 'Leader and Guide' of the revolution (Koko and Bakwesegha-Osula 2011). It was this tendency to squash dissent which the regime adopted when the protests broke out. The seemingly peaceful protests which started in Benghazi around mid-February 2011 turned violent within a week. This was partly because of the Gaddafi regime's crackdown on protesters and partly because an armed opposition group, the Transitional National Council (TNC), was also quickly established (Williams 2011). As if to lend credence to the purported assumption that the uprising was pre-meditated, the TNC established full and operational units under its command within a very short period of time. Although the opposition forces enjoyed rapid success during the beginning of the armed protests, the Gaddafi regime later tipped the balance of power back in their favour as they unleashed heavy attacks in order to

destroy the rebellion's epicentre in Benghazi. It was against this background that the crisis assumed full-scale armed conflict, marking the genesis of the Libyan debacle which later attracted international attention, divided the AU and shook its fragile new foundations of democracy and conflict prevention.

### **The AU's role and involvement in the Libyan conflict**

In most cases, the ambitions of the AU on the continent are clearly evident in the quest for peace, and the determination to strive for peace seems sincere (Møller 2009). It is observable that the AU does not simply watch without doing anything as deadly events unfold and plague countries on the African continent. In the case of Libya, there was evidence of positive AU hands-on involvement right from the start and it (the AU) undertook a number of initiatives aimed at bringing peace to the country. When the conflict exploded in Libya, the AU intrinsically took the responsibility to engage all the different stakeholders in Libya with the hope of finding an amicable solution to the crisis. One of the AU PSC's first and very commendable initiatives was the creation, on the 10<sup>th</sup> of March 2011, of an AU High-Level Ad Hoc Committee on Libya which was tasked to find means to stop the escalation of the Libyan crisis. The Committee was mandated to pay special attention to the troubled state with a view to engaging all key stakeholders in the quest to mediate a solution to the crisis. The idea was informed by Ugandan President Yoweri Museveni who was categorical during one of the AU meetings that the Libyan crisis was an African problem and therefore called for an African solution with the assistance of the wider international community (Museveni 2011). Working with the AU Commission Chairperson, Jean Ping, five countries represented by their respective presidents were appointed to this Ad Hoc Committee: South Africa (Jacob Zuma), Mauritania (Mohamed Ould Abdel Aziz), Mali (then under Amadou Toumani Toure), Congo Brazzaville (Denis Sassou Nguesso) and Uganda (Yoweri Museveni).

In pursuit of noble intentions meant to bring peace to Libya, the AU, in conjunction with the Ad Hoc Committee on Libya, came up with an AU roadmap to peace which sought to bring all the stakeholders around the table for purposes of working out modalities to implement a five-point plan whose objectives were: protection of civilians and the cessation of hostilities; provision of humanitarian

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assistance to affected populations; the initiation of political dialogue among the Libyan parties in order to reach an agreement for implementing modalities for ending the crisis; establishment and management of an inclusive transitional period; and the adoption and implementation of political reforms necessary to meet the aspirations of the Libyan people. In all fairness, the AU roadmap to peace in Libya was a genuine attempt at conflict resolution and not merely an attempt to shore up Gaddafi's appearance of legitimacy. In pursuit of these objectives, several other AU PSC meetings were held. Concerns were raised about the military intervention in Libya by some countries under the banner of NATO. Besides arranging for AU foreign ministers to meet with representatives of all the countries bordering Libya in order to discuss the regional implications of the conflict as well as map out strategies for regional stability, the AU mediation panel (the High-Level Ad Hoc Committee) also issued statements rejecting all forms of military intervention in Libya.

Besides expressing deep concern at the dangerous precedent that was being set by the lop-sided interpretations of the UN Security Council (UNSC) Resolutions 1970 and 1973, the AU Summit directed the PSC to diligently consider authorising the immediate deployment of an AU Observer Mission to monitor developments on the ground and facilitate the subsequent establishment of a bigger international mission which was supposed to involve the UN, the League of Arab States, the AU and any other relevant organisations. The AU Summit also urged member states to avail manpower, and financial and logistical support for the early and efficient deployment of the envisaged mission. Besides urging all the stakeholders in Libya to cooperate with the AU, the Summit also requested the African Group in New York and African members of the UNSC to take the initiative and call for a UNSC meeting to re-assess the implementation of the UNSC resolutions 1970 and 1973 which were apparently undermining the AU efforts, and causing the continental organisation to feel marginalised in the management of issues of an African country.

On behalf of the AU, South African President Jacob Zuma undertook two visits in two weeks during the month of June 2011 to meet and negotiate with Gaddafi (Massoni 2011). The NATO forces' disregard of the calls by the AU to halt the bombardment clearly undermined the continental body's efforts to bring

peace to Libya. The intention to undermine the AU was clearly demonstrated by the following. The AU High-Level Ad Hoc Committee, in conformity with resolution 1973 of the UNSC, requested on the 19<sup>th</sup> of March 2011 (after meeting in Mauritania) permission for the flight carrying its delegation to enter Libya on 20 March 2011 for purposes of fulfilling its (the Ad Hoc Committee's) mandate, but was initially denied permission notwithstanding the fact that both parties in the Libyan conflict had agreed to the proposal for dialogue (Bennis 2011; Mbeki 2011b). However, it was only after persisting that the AU Ad Hoc Committee was eventually allowed to fly into Libya during the beginning of April 2011 for consultations with all the stakeholders in the country. In the African spirit of brotherhood, Gaddafi accepted the AU roadmap to a political solution of the crisis. Besides consulting with the US and NATO to cease bombings so that the ceasefire agreement could be given a chance, the Ad Hoc Committee also flew to Benghazi, the bedrock of opposition to Gaddafi's rule, to consult and sell the AU roadmap to peace. However, the AU effort failed when the (then) rebels rejected the proposed roadmap to peace, arguing that the offer was a political manoeuvre by the AU. Given Gaddafi's ties with some African countries ever since he abandoned Pan-Arab ideology in favour of Pan-African ideology, and the fact that he assisted some of the African countries in various ways (Sammut 2009), the AU was viewed as a tool or running project of his (Gaddafi's) ambitions and not as a potential genuine/honest broker in the crisis. It was deeply believed in the eastern parts of Libya that African leaders were determined to help Gaddafi to cling on to power (Murphy 2011). As a result of the scepticism about the neutrality of the AU, the (then) rebels rejected the proposed roadmap, insisting that they were not going to accept any plan that fell short of Gaddafi's departure. This further complicated and stalled the AU efforts.

Additionally, the AU issued statements clearly detailing its intention to organise a resource mobilisation conference to cater for the emerging problems in Libya as well as to meet with the Arab League and the UN to strategise ways to find an early resolution of the conflict. In the meantime, the AU Commission Chairperson, Jean Ping, held several meetings with some officials from European countries, highlighting the common African position on Libya as evidenced by the consensus on the five-point plan that made up the roadmap, seeking

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their backing for the AU roadmap for resolving the Libyan crisis. Generally, the AU had the commitment to fulfil its mission to restore peace in Libya in spite of debilitating developments. Promising to act in compliance with the UN Resolution, the AU made it public that it was not going to spare any effort in facilitating a peaceful solution which was intended to duly consider the legitimate aspirations of the Libyan people. Notwithstanding the ingenuity as well as the efficacy of the AU roadmap, the NATO forces which participated in the Libyan campaign disregarded the peace plan and chose to undermine the AU.

## **The United Nations Security Council Resolutions 1970 and 1973**

From its inception, the UN has always been striving to maintain peace in the world. As highlighted in its founding statutes, it is also one of the UN's roles to ensure that conflicts are peacefully settled before resorting to the use of force. 'Peaceful means' implies the use of approaches such as negotiation, mediation, conciliation and arbitration, among other nonviolent methods. However, what transpired in Libya demonstrated undue influence and unwarranted and unjustified intervention since other peaceful means were never considered. Instead of taking a cue from the AU roadmap to peace in Libya, the UN, under the influence of mainly the US, the United Kingdom (UK) and France, supported by several other NATO members, decided to heed the call by the Council of the Arab League for the imposition of a no-fly zone. The call by the Council of the Arab League provided the much needed political cover for the much criticised military intervention. Besides the intervention being a complete violation of the 'letter and spirit' of the UNSC resolutions, it greatly undermined the efforts of the AU which is one of the UN's key pillars to support the furtherance of the objective to maintain or restore peace in the event of conflict. The AU's efforts to restore peace in Libya were seriously undermined by the intervention of the NATO forces.

The UN's actions appeared to have been premeditated and influenced by ulterior motives of some member states that either had a vendetta with Libya or the then President Gaddafi, or simply chose to undermine the AU efforts. Drawing parallels with the sequence of events during the Gulf crisis, developments in



Libya smack of a deliberate but veiled agenda to take advantage of the uprising in Libya and undermine the AU's evolving strategic capacity. Following the initial disturbances in Libya which started in Benghazi on February 16, the UNSC responded by adopting Resolution 1970 which imposed travel bans on senior officials of the Gaddafi regime, froze Libyan leaders' personal assets, and instituted an arms embargo (Francois 2011). In pursuit of the objective to maintain peace and security, Resolution 1970 was quite in order as it sought to pressure Gaddafi to negotiate a peaceful settlement with the rebels. However, it is the manner in which the subsequent UNSC Resolution 1973 was adopted and implemented which stirred controversy and ultimately undermined the AU's approach to the Libyan crisis. In complete contrast with what happened during the Gulf crisis, UNSC Resolution 1970 (which was passed on 25 February 2011) had no deadline for implementation. That notwithstanding, passing Resolution 1973 on 17 March 2011, 20 days after Resolution 1970, raised many questions over the efficacy of measures adopted to resolve the crisis as it smacked of double standards and ulterior motives by some Western countries (Khawaja 2011). Military action was initiated without exhausting all other possible channels of peaceful resolution of the crisis. Even after passing resolution 1973 on the 17<sup>th</sup> of March 2011, French forces started bombarding Libya one day later, on the 18<sup>th</sup> of March 2011. It was unlike the Gulf crisis where all possible measures for peaceful resolution of the crisis were exhausted. Despite the fact that the Gulf crisis posed a threat to international peace and security, Iraq was given a longer period of time to withdraw its forces before the international community resorted to military action. The first resolution (Resolution 678) was passed on 29 November 1990 and Iraq had a deadline date of 15 January 1991 to withdraw its forces. This significant restraint was in conformity with the UN Charter's Article 42 which stresses the use of force only as a last resort (Khawaja 2011).

Further evidence of the intention to undermine the AU clearly came from the statements by President Obama (US), the then President Sarkozy (France), and Prime Minister Cameron (UK) who declared in a joint letter published in the media on the 15<sup>th</sup> of April that they could not contemplate Libya's future with Gaddafi in power. They further indicated in the same letter their hope for Libya's future without Gaddafi, insisting that he (Gaddafi) 'had to go for good' (Mbeki 2011a). Additionally, the call for Gaddafi to leave the country and face

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trial in the International Criminal Court (ICC) only served to render a ceasefire impossible and to maximise the prospects of continued armed conflict since it emboldened Gaddafi's resolve to remain in Libya and fight to the bitter end. These developments worked against the AU efforts to restore peace in Libya as the TNC gained courage from these statements to fight on.

### **The AU's weaknesses: Induced or inherent?**

The ambitions of the AU in its attempts to resolve conflicts on the African continent do not always bring about positive results. In most cases, the determination to strive to achieve its (the AU's) objectives seems sincere (Møller 2009). Despite a robust peace and security design for the AU, the organisation appears to be handicapped by numerous factors and inherent structural deformities which hinder it from achieving its goals. Among some of the factors which tend to limit the AU's effectiveness are the lack of unity of purpose among the member states, inaction on critical issues, ineffective resolutions, and external interference in the affairs of the African continent. These are discussed as follows:

#### **Why did the AU roadmap fail?**

Although there is very strong criticism of the role of some Western powers in Libya as they stand accused of undermining the approach of 'African solutions to African problems' – evidenced by the manner in which the AU's roadmap for peace in Libya was undermined by the use of excessive force aimed at regime change, it can also be argued that the roadmap never had any prospects of achieving success (Nathan 2011). Although the AU was never afforded the opportunity to play a leading role in finding a solution to the Libyan debacle despite its effort to try and engage all the parties to the conflict (Ebrahim 2011), its approach (of preventive diplomacy) was no longer a viable option because the rebellion had already started.

#### **Lack of unity of purpose among AU member states**

The lack of unity of purpose among African states is a fundamental problem that dates back to the colonial era. By then, the divisions resulted in the formation of blocs such as the Casablanca, Monrovia and Brazzaville groups. This led to

a general consensus that the initial formation of the OAU was a compromise. Such divisions manifested themselves again at the time of the transition to the AU. The gradual unity that the newly independent African countries favoured in 1963 is still preferred in the present day and, although it can be classified as pragmatic politics, it is a reflection of compromise politics that serves short-term goals. African states have continued to favour compromise politics because of the emphasis on the Westphalian concept of state sovereignty that focuses on state rights without duties.

AU member states are still not enthusiastic about devolving sovereignty to the continental organisation as a supranational body. In addition, this lack of unity has often been responsible for the perceived failure by the AU to attain a common position on critical issues. The AU roadmap to peace in Libya did not materialise because the continent was not united in the adoption of a common position to solve the Libyan crisis. In spite of Gaddafi's well publicised largesse towards other African countries as well as other initiatives which included Libya's regular 15% contributions to the AU operational budget (Nolan 2011), his interference in the affairs of other African countries earned him few genuine friends among African leaders. Therefore, diverging views among African leaders regarding Gaddafi's regime quickly translated into a lack of coherence within the African countries. It was against this context that the African member countries which participated in the UNSC proceedings leading to the passing of resolutions 1970 and 1973 are considered to have let down the continent. Whereas there was not much of a problem with resolution 1970, it is the implementation of resolution 1973 which sparked much controversy. The three African countries that were serving as semi-permanent members of the UNSC at that time, viz South Africa, Nigeria and Gabon, supported resolution 1973 probably for different reasons and might not have been aware of the likely consequences. That notwithstanding, this development demonstrated a lack of strategic coordination between the AU Commission and these semi-permanent members of the UN insofar as protecting the AU's position/interest was concerned. The AU 'common position' encapsulated in its roadmap to peace, had already been crafted by the time the UNSC voting took place (Koko and Bakwesegha-Osula 2012). Additionally, South Africa's vote in support of resolution 1973 invited

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the ire and criticism of other African countries since the continent expected the political and economic giant in Africa to play an effective role in articulating and asserting Pan-African values. Zuma, representing South Africa and being the leader of the five-member AU High-Level Ad Hoc Committee on Libya, had the opportunity to articulate the African common position on the matter. Voting for the UNSC resolution 1973 was contrary to what the AU PSC had agreed (Museveni 2011). Although the damage was irreparably done, Zuma tried to defend South Africa's stance by accusing some NATO members of overriding the purpose of the UNSC resolutions 1970 and 1973, which apparently did not authorise implementation of a regime change agenda, but was supposed to be limited solely to the protection of civilians (Massoni 2011). Zuma's criticism of the NATO air strikes, which he later considered to have been against the 'letter and spirit' of the UNSC, came a bit too late and was of no consequence as discord and disunity among African countries had perceptibly taken root already.

Lack of unity of purpose and patterns of enmity among African countries also became evident as the Libyan crisis unfolded. This happened notwithstanding the AU's declaratory commitment to a culture which precludes disunity and in particular behaviour that privileges armed conflict (Vreÿ 2008). About three months after the crisis erupted, cracks which had emerged within the AU started widening. By June 2011, as a sign of protesting against Gaddafi's approach to the Libyan crisis, Liberia suspended all diplomatic relations with the Libyan regime as a way to gradually isolate Gaddafi. With the passage of time, Gambia, Senegal and Mauritania started recognising the TNC, a move which was directly contrary to the AU principles (Massoni 2011). As events unfolded, sharp divisions among AU members continued. As the conflict intensified and as Gaddafi became less and less vocal, his public appearances were drastically reduced and his whereabouts unknown, and Botswana as well as one of the African powerhouses, Nigeria, were quickly added to the list of African countries that recognised the TNC as the bona fide government of Libya (Kasasira 2011). Interestingly, the situation was the opposite in Zimbabwe where Mugabe refused to recognise the TNC even well after the death of Gaddafi. The Libyan Ambassador to Zimbabwe, who hoisted the TNC flag at the Libyan embassy in Zimbabwe during the peak of the crisis, was expelled from Zimbabwe as the government issued a 48-hour

ultimatum for the Ambassador to leave the country because he had violated the perceivably 'common position' of the AU by then. These divisions across the continent shook the AU's new and fragile foundations designed to promote democracy and the prevention of conflict (Sturman 2012).

The AU itself later blundered in the manner it handled the Libyan conflict. The AU decision to recognise the TNC was in complete violation of its working ethics as an institution. Initially, the AU was not really in support of international opinion, opting for an isolated and ambivalent view of events in Libya. With so much discord, which was characterised by some African countries supporting the TNC while others either remained undecided or opted to openly support the Gaddafi regime, the demise of the AU's common position on the Libyan conflict and the futility of opposing the TNC became glaringly evident and inevitable. Although the AU PSC, during its meeting on 26 August 2011, as well as the High-Level Ad Hoc Committee meeting, made it conditional to recognise the TNC only after the creation of an all-inclusive transitional government, the TNC was subsequently recognised before the formation of any government, even during the post-Gaddafi era. Such statements were viewed as veiled acceptance of the TNC. This development threatened the AU's normative framework which governs unconstitutional changes of governments. There is no doubt that the toppling of Gaddafi by the TNC was a case of unconstitutional change of government since the situation involved the replacement of a recognised government by armed dissident groups and rebel movements (Koko and Bakwesegha-Osula 2012). Additionally, the recognition of the TNC by the AU amounted to an official endorsement of the AU's own marginalisation by the deliberate acts of the UN and NATO's coalition of the willing which actively but secretly supported the TNC.

The developments and divisions surrounding the Libyan conflict were, to some extent, quite reminiscent of what transpired in Madagascar in 2009 when Rajoelina ousted Ravalomanana in a coup. Although the AU PSC condemned the unconstitutional takeover of power in Madagascar, it was expected that all progressive and peace-loving African nations were going to take a common position on African conflicts. Interestingly, Gaddafi, during his tenure as chairman of the AU during that year, unaware that a similar fate was going to

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befall his country a couple of years later, announced at that time that the Libyan government recognised the Rajoelina government, in stark contrast with the AU PSC position (The Economist [online] 2009). When similar developments happened in Libya in 2011, such disunity among African states worked to undermine AU efforts to attain a collective voice on an important peace and security matter which had befallen the African continent.

### **Inaction on critical issues and ineffective resolutions**

The lack of unity of purpose among African states has also resulted in the continental body failing to act decisively on critical issues. National sovereignty appears to take precedence ahead of the desires of the supranational organisation which in this case, is the AU. AU member states seem to have much national pride and they show signs of unity as a continent mainly at symbolic level. This has been more apparent whenever states feel that their 'sovereignty' has been threatened. Most Heads of State are still committed to the older rule of non-interference. There has been an emphasis on the Westphalian notion of absolute sovereignty, coupled with a lack of the sense of collective action motivated by the need to achieve collective security. The result has been, among other issues, ambiguous provisions within the Constitutive Act and the focus on sub-regionalism as opposed to regionalism/continentalism. This was quite evident in Libya where it became clear that there was no joint coordination in policy between the AU and the Arab League (Dubbelman 2012). Initially, the US was reportedly reluctant to intervene in Libya without the consent of the majority of Muslim nations. However, on the 12<sup>th</sup> of March 2011, the Council of the League of Arab States issued a statement calling for the imposition of a no-fly zone over Libya. This development showed that the Arab League was more aligned to NATO than the AU. This literally paved the way for the US to influence the UNSC, a development which eclipsed the AU's mediation plans (Sturman 2012). NATO forces were later allowed to use the Arab League's air space to launch attacks into Libya.

Generally, the continental body appears to focus more attention on creating situations free of direct physical violence (negative peace) through conflict management and resolution, which is more costly and difficult to achieve than

conflict prevention through preventive diplomacy which may bring about positive peace. The descent/collapse of many African countries into devastating armed conflict illustrates the consequences of perpetual inaction of the continental body. The inaction could be a possible reason why, in most instances, the peace missions that are deployed by the AU have restrictive mandates, that is, the missions are confined to observation instead of protection of the civilian population through the use of force when necessary. The AU, through the PSC, appears to have no teeth to enforce its resolutions and has become more of a spectator of the political squabbles rocking the African continent.

The swiftness with which the conflict spiralled in Libya found the AU unprepared to tackle the crisis with corresponding speed. Unlike the demonstrations in Tunisia and Libya which were peaceful until the leaders surrendered power, the uprising in Libya turned violent within a week (Mbeki 2011b; Williams 2011). This reason, coupled with the lack of tact and innovation on the part of the AU, and the absence of precedents in dealing with seemingly new modalities of regime change, appear to have influenced the slow response and softly-softly approach by the continental organisation towards the crisis in Libya. The AU's response was rather lethargic. Initially, the AU PSC issued two very strong declarations supporting the legitimate aspirations for democracy by the people of Libya, condemning violence and the violation of international humanitarian law against civilians. Besides the pronouncements condemning the grave developments in Libya from the time the campaign against Gaddafi started (around mid-February 2011), the AU's first effective and action-oriented response was almost a month later (on 10 March 2011) when the desire to seek to mediate through the High-Level Ad Hoc Committee was finalised. This development and the adoption of the roadmap were in synchronisation with the AU's age-old and usual doctrine of dealing with intra-state conflict. This demonstrated the lack of innovation as the approach did not take into consideration the then rebels' rapid switch from popular uprising into a *de facto* civil war (Koko and Bakwesegha-Osula 2012).

Some scholars argue that despite the interference in Libya by the Western powers whose use of excessive force undermined the African approach to African solutions, there were no prospects of success for the AU roadmap to peace right

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from the beginning (Nathan 2011). This was an appropriate projection which was later vindicated. Indeed, there were misconceptions about the violent uprising, rebellions and the practice of mediation. Given the nature of rebellions and the fact that the Libyan uprising had just begun, chances of successfully mediating between the warring parties were highly likely to fail during the infancy stages because the mutually hurting stalemate was far from being anticipated (Nathan 2011). The attempt by the AU High-Level Ad Hoc Committee to mediate and seek assurance of a ceasefire during the infancy of the crisis was premature and unrealistic. This was because of the fact that Gaddafi's forces were escalating the bombings while the TNC was launching retaliatory attacks as well as rebuffing talks on AU terms (Sturman 2012). Given the TNC's great frustration with Gaddafi's perceived tyranny as well as with exclusion from governance, coupled with the inspiration from the Tunisian and Egyptian experiences which were recent by then, and the attendant determination to overthrow the incumbent regime, the AU roadmap was bound to be rejected (Nathan 2011). Interestingly, even if the proposed settlement was noble and acceptable, it was still doomed to fail because of skewed perceptions among the protagonists. The AU was not acceptable to the TNC as a credible, trusted, non-partisan and genuine mediator since it had consistently ignored the structural violence in Libya. The TNC also suspected that Gaddafi had accepted the roadmap to peace fully aware that the AU lacked the 'hard power' to enforce compliance in the event that the TNC had accepted the peace initiative. The TNC therefore suspected that Gaddafi was likely to make use of the AU proposal to bolster his position and possibly weaken the TNC. Coincidentally, the TNC's rejection of the AU peace plan was actually in line with the stance that was taken by NATO's coalition of the willing.

Importantly, African leaders have initiated and sustained over the years a conservatism buttressed by the notion/culture of peer-shielding that entails an unwillingness to criticise one another – especially on questionable governance issues. The principle and practice of African solidarity gradually became the reigning ideology on the continent. This has also been justified by obscure notions of 'African solutions to African problems' when conflict situations deteriorate. Many African leaders were shaken by the developments in North Africa and they also became vulnerable to volatile public sentiment.



Therefore, the attitude of other African Heads of State was quite cognisant of the risk of having the protests overflowing to their countries, and this underpinned the cracks which emerged among the African countries (Clarke 2012; Harsch 2011). They could not openly condemn Gaddafi's crackdown on the protesters because they were likely to adopt similar repressive tactics if the uprisings had spread to their countries.

### **Possible innovations to enhance the AU's effectiveness**

The AU, through the PSC, may have to take very bold steps to ensure the success of its efforts to maintain or in some instances restore peace and security on the continent. One of the first things that the AU could possibly do in order to realise some of the intended AU goals is to enhance the ability to act before conflicts escalate to become destructive. The system of governance which was in Libya before the uprising was not wholly informed by the tenets of conventional democracy and universal suffrage as practised in most of the modern democratic states. Gaddafi's system of democracy was questionable given the fact that the country never had popular conventional elections for four decades (Martinez 2007). If the AU had a clear mechanism to act on potentially volatile situations, the Libyan crisis could have been somehow averted. Given the existence of the continental early warning system, the arm of the AU PSC which facilitates timely and efficient detection of and response to conflict and crisis situations in Africa (AU Compendium 2012), the Libyan crisis needed to be managed before getting out of hand. Chances are that the Continental Early Warning System might have been aware of the divisions, grumbling and discontent among the Libyans over Gaddafi's leadership and style of governance. Ideally, preventive action could have been instituted before the situation turned violent as it did. Even when the insurrection erupted, reports of the Gaddafi forces being heavy handed and committing mass atrocities against the protesters could have been timeously detected and attended to with the speed that it deserved. The visibility of the AU's mechanism to react timeously to conflict situations appears to be the missing link which needs improvement, lest the continental early warning mechanism be viewed as ineffective.

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There is need for a paradigm shift among African countries especially on the role of the PSC as a continental mechanism and the co-operation that should take place between the PSC and sub-regional mechanisms. The stance which was taken by the Arab League to call for the imposition of a no-fly zone undermined the AU. A trend of benign neglect and the absence of a shared strategic vision are quite evident across Africa. A shared strategic vision can only be achieved if African countries were to reflect and address some of the fundamental issues which underlie the AU's failures in maintaining peace and security across the continent. The need for integration and collective security undergird some of the AU's aspirations. For integration and collective security to be achieved among African countries, there is need for partial surrender of sovereignty to the AU. The tendency by states to value national interests ahead of collective security, a tendency which is anchored in the celebration of national sovereignty above continental sovereignty, needs to be altered. The partial surrender of sovereignty does not mean the forfeiting of the right to manage a particular territory, but entails the promotion of collective security through a supranational structure which, in this case, is the AU. If this was observed in Libya, then the continent could have rallied behind a common position and the situation could have turned out differently.

These recommendations might gradually be achieved if African countries heed the call to unity that has always been stressed and was the underlying cause for the formation of the OAU in 1963 and the subsequent transformation which gave birth to the AU. Unity will enable member states to realise the utility of working within the framework of the AU and PSC in maintaining peace and security across the continent. Collective continental unity and political will can go a long way in assisting the AU PSC's ambition to rid the continent of conflicts which have frequently been erupting across the African continent despite the creation of the AU, which is a rebranded and supposedly re-invigorated version of the OAU. It will also enhance collective action in conflict situations and ensure that the continent attains a collective voice, especially on peace and security issues affecting Africa. The developments in Libya clearly show the neglect of the virtues of the envisaged unity and the consequential invasion of Libya typified the absence of unity.

The AU should evoke the notion of the responsibility to protect (R2P) in circumstances where a government launches indiscriminate assaults on the very people that it ought to protect. Intervening in grave circumstances would be in line with the provisions of Article 4(h) of the AU Constitutive Act which envisages that the continental organisation will have the right to intervene in member states in the event of grave circumstances like crimes against humanity (Gebrewold 2010). Although some NATO countries stretched and abused the concept of the 'Responsibility to Protect' in order to disguise the regime change agenda in Libya while undermining the AU, the intervention also exposed the AU's political unwillingness to implement Article 4(h) of its Constitutive Act (Kuwali 2012).

The need for the AU to be progressive, innovative and adaptive to changing situations remains imperative. The fact that the uprising in Libya was slightly different from the usual military coups called for tactical innovation in dealing with the crisis. There was need to recognise that North Africa is an exceptional sub-region of Africa which overlaps with the Arab and Mediterranean realms. Therefore, the AU could not so easily play a leading role on its own in Libya given the attendant threat and security implications of the wider context of the Arab Spring to Southern Europe (Sturman 2012). Taking note of the implications and limitations of 'African solutions to African problems' for such countries which are not in Sub-Saharan Africa, and considering the wider context of such conflicts would greatly help the AU in future.

## Conclusion

The AU in general and the PSC in particular have a huge mandate and a lot of potential to manage and transform conflicts besetting the African continent. To ignore the conflict phenomena that the AU promised to eradicate would be a negation of its core and founding principles as enunciated in the AU Constitutive Act. Whereas armed conflicts have become the most serious threat to its vision, the AU has to demonstrate its new stance of non-indifference through military interventions where necessary. However, to date, the AU's performance has been very modest. Normative preferences regarding sovereignty, non-interference and non-intervention remain very contentious issues within

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the AU. Armed insurrection, as happened in Libya, is therefore testing the AU intervention capacity amid indications of a tendency to steer clear of the military option even where the need is overarching. Additionally, the AU has not been as effective as expected since the institution lacks teeth to enforce its resolutions. The institutional limitations, ineffectiveness, disunity and lethargic approaches to critical issues were all exposed during the 2011 Libyan crisis. As the Libyan conflict unfolded, the AU members simply tried to find a way to restore their reputations and gain a larger share of the new African diplomatic order, one where Libya's role was going to be diminished notwithstanding the outcome of the war. Despite registering some successes on a number of other fronts, the AU may take a little longer to have a solid/united and effective continental mechanism to decisively deal with the conflicts besetting the African continent. Inadvertently, the quest for unity in Africa is at times hindered by some external forces that blatantly disrespect the idea of 'African solutions to African problems'. Additionally, the AU's inability to arrive at common positions during upheavals continues to undermine its effort and noble intentions as evidenced by the Libyan crisis. However, instead of moaning about the perceived imperialist pretensions of some Western powers to divide and possibly rule/control Africa in furtherance of their interests, a more sustainable approach for AU leaders would be to see to it that local grievances are effectively addressed before conflicts become pronounced. While there are limitations to the AU's fledgling institutions and mechanisms developed to manage conflicts across the continent, the AU and especially the PSC may still need to be given more time to evolve and work effectively, notwithstanding the fact that it is now more than one decade after the transition from OAU to AU.

Despite the AU's failure to precisely distinguish between benign neglect and malign involvement in the Libyan uprising, the fact remains that the AU member states lack political will and unity, as well as a broader diplomatic strategy to tackle continental challenges to peace and security. For the AU to forge a common strategic peace and security culture which will deal decisively with armed conflicts across the continent, it may require a majority conception and some enduring, far-reaching changes that might be difficult to achieve within the foreseeable future as long as present conditions persist. While it is an

apt time to reflect on whether the old rules still undergird the AU intervention strategy, it remains overarching that African leaders must stand together to erase the contagion of the 2011 Libyan experience and move forward to ensure a solid strategic capacity of the AU so that they, as leaders, become the midwives of the envisaged Africa destiny.

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# The African Union's notion of 'African solutions to African problems' and the crises in Côte d'Ivoire (2010–2011) and Libya (2011)

*Kasaija Phillip Apuuli\**

## **Abstract**

The formation of the African Union (AU) was precisely aimed at finding African solutions for African problems. The AU's institutions, powers and objectives were meant to bring about fundamental shifts away from the constraints imposed on actions under the Organisation of African Unity (OAU) charter. When the crises in Côte d'Ivoire and Libya began, it was hoped that the AU would be the one to find solutions under its much cherished notion of 'African solutions to African problems'. However, the organisation has sometimes taken half-hearted measures, and suffered from internal divisions among its members on how to react to the crises and their consequences, which rendered the notion of 'African solutions to African problems' moot.

## **1. Introduction**

In the aftermath of the failure of the international community in the 1990s to decisively deal, inter alia, with the genocide in Rwanda and state collapse

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\* Dr Kasaija Phillip Apuuli teaches in the Department of Political Science and Public Administration, Makerere University, Kampala. He wishes to thank Ben Kioko, the AU Legal Counsel, for important insights on the AU's reaction in the Côte d'Ivoire and Libya crises.



in Somalia, African countries resolved to craft their own solutions to the problems emerging on the continent. This marked the origin of the notion of 'African solutions to Africa's problems', which was later to become one of the founding principles of the AU. It should be recalled that the inauguration of the OAU in 1963 represented the institutionalisation of pan-African ideals (Murithi 2008:71). However, the organisation was impotent in its efforts to positively influence national politics, monitor the internal behaviour of member states, and prevent human rights violation atrocities. The OAU Charter contained a provision to defend the sovereignty, territorial integrity and independence of member states which came to be translated into the norm of non-intervention (OAU 1963: Art III (3)<sup>1</sup>). The transformation of the OAU to the AU was meant to be a policy shift by which the new organisation would become an effective mechanism to deal with the numerous problems afflicting the continent. Thus, the notion of *non-interference* was replaced with that of *non-indifference*, based on the possibility that a fire engulfing your neighbour's hut could well spread to your own.

Nevertheless, the crises in Côte d'Ivoire and Libya exposed the hollowness of the AU being an African solution to African problems. This paper argues that in the two cases, the 'marginalisation' of the organisation was self-inflicted, because, had it taken a very strong united stance when the crises broke out, it would have created a strong basis from which to preclude the eventual direct intervention of the UN and France in Côte d'Ivoire; and the North Atlantic Treaty Organisation (NATO)<sup>2</sup> and the UN in Libya. However, from the very beginning, the organisation took half-hearted measures in its reaction, which eventually resulted in its being overridden. Moreover, the AU was saddled with problems, including fissures within its ranks, which precluded it from playing a very active and meaningful role in the crises, and caused it to be relegated into a mere bystander to a game being played within its own backyard.

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1 Article III (2) established the principle of 'non-interference in the internal affairs of states'.

2 Before NATO intervened as an organisation, its individual members including France, United Kingdom (UK) and the United States of America (USA) had already individually entered the conflict.

## 1.1 Côte d'Ivoire

On 31 October 2010, Côte d'Ivoire successfully conducted a much delayed and repeatedly extended presidential election.<sup>3</sup> Marking an important step towards ending the protracted political crisis triggered by the civil war that started in September 2002, the election was held in an atmosphere that was generally free of violence. The election also registered a high voter turnout of 80 percent, signifying the strong desire of the public for the crisis to end.

The high level of public participation in the election increased the legitimacy of the polls and demonstrated some success of the preparations and campaigning, and most importantly the enthusiasm of the public for a return to normalcy. The polling was conducted in an atmosphere that was largely free of violence, with the Special Representative of the UN Secretary-General Choi Young-Jin subsequently informing the UN that no major human rights violation had been recorded during the voting.

Although the electoral timeline envisaged that the electoral commission should announce election results within 72 hours following the closure of polling stations on 3 November 2010, the Independent Electoral Commission (CEI) started to announce preliminary results on 2 November 2010. When the final results of the election were eventually announced by the CEI on 3 November 2010, none of the three main contenders had attained the 50% threshold to win the first round. Of the 14 candidates competing for the top position, the incumbent Laurent Gbagbo ranked first with a total of 38.3 percent of votes, followed by Ouattara with 32.08 percent and Bédié with 25.24 percent. This meant that Gbagbo and Ouattara, being first and second, would go for the second round.

The second round of the 28 November 2010 presidential elections pitted Ouattara, the candidate of the Union of Houphouëtists for Democracy and Peace (RHDP) against Gbagbo, outgoing president and candidate of the Presidential Majority (LMP). Ouattara won the election with 54.1 per cent of the

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3 For background information on the situation, see International Crisis Group (ICG) 2011b and 2011a.

votes, but Gbagbo did not accept the result announced by the CEI and certified by the United Nations Operation in Côte d'Ivoire (UNOCI) (ICG 2011b:1). He therefore manipulated the Constitutional Council to stay in power. Headed by a Gbagbo associate, the Council cancelled more than 660 000 votes in seven departments favourable to Ouattara and proclaimed Gbagbo the winner with 51.4 per cent of the votes against 45.9 per cent for his opponent (ICG 2011a:2). However, this manipulation of the electoral results was so hasty and clumsy that the figures finally issued were wrong since the areas in which elections were cancelled were not sufficient to factually change the overall result of the election. Gbagbo thus embarked on a campaign of terror against Ouattara's supporters in order to stifle protest, while the latter allied himself with the former rebels of the *Forces Nouvelles* (FN) (ICG 2011b:1).

After several months of clashes in Abidjan and elsewhere between the FN forces and army units and militias loyal to Gbagbo, and failed diplomatic mediation by the AU and the Economic Community of West African States (ECOWAS), Ouattara launched a countrywide military offensive on 28 March 2011. This victorious offensive, which led to Gbagbo's arrest on 11 April 2011, was facilitated by the direct intervention of UN and French *Force Licorne*<sup>4</sup> helicopters, as authorised by Security Council Resolution 1975 to prevent the use of heavy weapons by the Gbagbo government against the civilian population (ICG 2011b:1). After arrest, Gbagbo was transferred to the north of the country where he was held in detention, until his transfer to The Hague into the custody of the International Criminal Court (ICC), to await trial.

## **1.2 Libya**

Inspired by the events in Tunisia and Egypt (also called the 'Arab Spring'), in which ordinary people took to the streets to force out the governments there, the people in Eastern Libya began an uprising against the government of Muammar Gaddafi in mid-February 2011. The rebels immediately took control of several towns – including Benghazi, the second biggest town in Libya. During his 42

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4 This French operation was established in 2002 to help separate rebels who controlled the northern part of Côte d'Ivoire and the government that controlled the southern part. It was launched under the Defense Accord between Côte d'Ivoire and France of 1961.

years of rule, Gaddafi imposed a repressive system of government devoid of any of the institutional features common even to many of the world's most undemocratic regimes (Institute for Security Studies (ISS) 2011a:3). When he first took over power in a military coup in September 1969, Gaddafi introduced his so-called Third Universal Theory which advanced the idea that 'people should directly run the activities and exercise the powers of government' (ISS 2011a:3). The result of this system over the years was the virtual absence of any development of a state bureaucracy or any form of institutionalised governmental structure. In Gaddafi's Libya therefore, there was neither a constitution in the modern sense nor any political parties.

The immediate trigger of the crisis were the events in neighbouring Tunisia and Egypt where, between January and February 2011, the people forced out Presidents Ben Ali and Hosni Mubarak respectively, in public demonstrations and protests. In the case of Libya, the protests began on 15 February in the eastern city of Benghazi where people staged a protest against the government for arresting a human rights campaigner (ISS 2011a:3). As in Tunisia and Egypt, opposition groups used social network computer sites such as *Facebook* to call on people to stage protests (ISS 2011a:3). The lethal and indiscriminate use of force by security forces on un-armed protesters resulted in condemnation by the international community. The protesters established a Transitional National Council (TNC), headed by former Justice Minister Mustafa Mohamed Abud Al Jeleil, to spearhead the struggle against the Gaddafi government.

As the rebellion rolled out west towards Libya's capital, Tripoli, the Gaddafi government mobilised its forces to confront it. By the end of the month of February 2011, Gaddafi's forces had been able to take back several towns that had been overrun by the rebels and were threatening a bloodbath in Benghazi. In the meantime, the AU's Peace and Security Council (AU PSC) met one week after the rebellion broke out and issued a communiqué spelling out its intention to send a fact-finding mission to Libya (AU PSC 2011b: para. 6). As the PSC was preparing itself, and in response to the threat from Gaddafi forces to crush the rebellion, the United Nations Security Council (UNSC) passed resolution 1973 authorising the use of force to protect the civilian people. This marked the beginning of western countries' intervention in the Libya crisis.

On Sunday, 21 August 2011, rebels launched an offensive to take Tripoli from Gaddafi's forces. They made rapid progress and by the end of the week had overrun much of the capital although sporadic fighting continued in parts of the city. Whilst Gaddafi went into hiding, he continued making radio broadcasts urging his followers to fight and take back the city. Rebel forces captured the city of Sirte on 20 October 2011 and subsequently news started filtering out that Gaddafi had been killed (ISS 2011f:5). When it was confirmed, Gaddafi's death effectively brought to an end the war in Libya.

## **2. The AU, conflict resolution and the notion of 'African solutions to African problems'**

Whilst establishing the AU, African leaders recognised the scourge of conflicts in Africa as constituting a major impediment to the socio-economic development of the continent (AU 2000: preamble, para. 9). They also noted that the need to promote peace, security and stability is a prerequisite for the implementation of development and integration agenda. Whilst the AU is guided by the objective of 'promot[ing] peace, security and stability on the continent (AU 2000: art. 3(f)), it is also based on the principle of 'respect for the sanctity of human life...' (AU 2000: art. 4(o)). The AU leaders recognised the failures of the OAU in the area of conflict resolution. Due to the doctrine of non-intervention, the OAU became a silent observer to the atrocities committed by some of its member states. A culture of impunity and indifference was cultivated and became entrenched in the international relations of the African countries. Thus, learning from the lessons of the OAU, when the Africa leadership decided to establish the AU, they adopted a much more interventionist stance in the organisation's legal frameworks and institutions. Apropos of the legal framework, for example, the Constitutive Act declared that 'the Union had a right to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity' (AU 2000: art. 4(h)). Also, member states were given a right to request intervention from the Union in order to restore peace and security (AU 2000: art. 4(j)). Finally, the member states of the Union were enjoined to respect democratic principles, human rights, the rule of law and good governance. These principles were a marked departure from the Charter of the OAU.

With regard to institutions, the AU sought to create robust conflict resolution organs to replace those of the moribund OAU. During the formative process of the AU, the Assembly of Heads of State and Government of the OAU meeting in Lusaka, Zambia, in July 2001, adopted Decision 8 on the implementation of the Sirte Declaration (on the establishment of the AU, adopted in 1999), including the incorporation of other Organs. It was on the basis of this decision and Article 5(2) of the Constitutive Act that the AU PSC replaced the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution (CPMR), established under the 1993 Cairo Declaration. The Cairo Declaration had 'signalled Africa's determination to resolve its own problems' (Bakwesegha 1993:378). This was the firm indication of the African leadership's resolve to craft 'African solutions to African problems'. But the OAU's Mechanism for CPMR was not effective at all; as it did not deal, for example, with the 1994 genocide in Rwanda, or the crises in Liberia and Sierra Leone. Moreover, it relied on the goodwill and consent of the state concerned.

The Protocol relating to the Establishment of the PSC was adopted by the inaugural meeting of the Assembly of the Union held in Durban, South Africa, in July 2002 and entered into force on 26 December 2003. Due to the conflicts on the continent, the PSC has been compelled to deal mainly with country-focused issues and thus, when the crises in Côte d'Ivoire and Libya broke out, it was seized of the matters. This was in the spirit of having African solutions to African problems.

### **3. The AU and the crises in Côte d'Ivoire and Libya**

#### **3.1 Côte d'Ivoire**

##### **Efforts by ECOWAS**

In the aftermath of the second round of voting in Côte d'Ivoire, and the failure of incumbent president Gbagbo to cede power to the winner Ouattara, the AU PSC in a press statement on 4 December 2010 expressed its total rejection of any attempt to create a *fait accompli* to undermine the electoral process and the will of the people' (AU PSC 2010a). The PSC declaration came on the same day that ECOWAS issued a statement which condemned 'any attempt to usurp the popular

will of the people of Côte d'Ivoire and appealed to all stakeholders to accept the results declared by the electoral commission' (ISS 2011a:12). Incidentally, as the AU and ECOWAS were condemning what was happening in Côte d'Ivoire, both Ouattara and Gbagbo were inaugurating themselves as duly elected president of the country. On 7 December 2010, the ECOWAS Authority of Heads of State and Government met in an extraordinary session and 'formally recognized Ouattara as President-elect of Côte d'Ivoire representing the freely expressed voice of the Ivorian people' (ECOWAS 2010a: para. 7). Two days after, the AU PSC endorsed the ECOWAS position and decided 'to suspend the participation of Côte d'Ivoire in all AU activities until such a time the democratically-elected President assumes state power' (AU PSC 2010b: paras. 3 and 4). Gbagbo ignored the AU and ECOWAS's calls and declarations to cede power to Ouattara.

Frustrated by the intransigence of Gbagbo, ECOWAS ratcheted up its pressure. At an extraordinary meeting of its authority held at Abuja on the eve of Christmas 2010, the heads of state and government reiterated their position of 'recognition of Ouattara as the legitimate president of Côte d'Ivoire as non-negotiable' (ECOWAS 2010b: para. 7) and 'expressed their support for a travel ban, freeze on financial assets and all other forms of targeted sanctions imposed by regional institutions and the international community on the outgoing president and his associates ...' (ECOWAS 2010b: para. 7). In the event of Gbagbo's continued intransigence, the ECOWAS community 'would be left with no alternative but to take other measures including the use of legitimate force, to achieve the goals of the Ivorian people' (ECOWAS 2010b: para. 10). In order to send a clear message that the authority meant what it was saying, the heads of state and government instructed the President of the ECOWAS Commission to convene without delay a meeting of the Committee of Chiefs of Defence Staff in order to plan future actions ... in the event that their message was not heeded' (ECOWAS 2010b: para. 11). The Committee of ECOWAS military chiefs met twice in Abuja, Nigeria, on 29 to 30 December 2010, and Bamako, Mali, on 18 to 19 January 2011, to consider options available for forcefully removing Gbagbo if political persuasion failed. Nevertheless, the contemplated military action faced challenges, including the fissures that developed among the ECOWAS countries apropos of the intervention. There was no strong political will and consensus

among the ECOWAS countries for the intervention. Ghana, for example, indicated that it would not contribute troops to an ECOWAS regional force to oust Gbagbo on the ground that its military was engaged in many peacekeeping operations around the world, including Côte d'Ivoire.

ECOWAS's proposal to remove Gbagbo by force also received lukewarm support from the UN. Under the UN Charter, the UN must authorise any action taken by a regional arrangement or agency apropos of the enforcement measures for the maintenance of international peace and security (UN [1945]: art. 53(1)). With regard to the ECOWAS contemplated military action in Côte d'Ivoire, the UN Under-Secretary-General for Peacekeeping Operations, Alain Le Roy, disclosed that: 'We are not part of any military operation or option prepared by ECOWAS; it's purely ECOWAS decision' (Akande 2011). The UN ambivalence sent wrong signals to the ECOWAS countries which were already preparing to contribute troops to the mission.

### **AU Mediation**

As ECOWAS was contemplating military action to remove Gbagbo, the AU was continuing with mediation attempts. On 4 December 2010, the Chairperson of the AU Commission, Jean Ping, requested former South African President Thabo Mbeki to travel to Abidjan to mediate a peaceful outcome of the dispute (Cook 2011:13). After meeting the disputants and the Special Representative of the UN Secretary-General Choi, Mbeki failed in his mission and left the country 'after making a generic call for peace and democracy to prevail' (Al Jazeera 2010).

The AU's most serious attempt (or was it?) to end the Côte d'Ivoire crisis after the failure of the Mbeki mission was its appointment of Kenya's Prime Minister Raila Odinga as mediator in the conflict. Odinga was asked by Ping to 'lead the monitoring of the situation in Côte d'Ivoire and bolster the efforts being undertaken to end the turmoil' (Daily Nation on The Web 2011). The choice of Odinga as mediator was baffling because, at the beginning of the dispute he had declared that 'Gbagbo must be forced out, even if it means by military force to get rid of him' (Daily Nation on The Web 2011). He termed Gbagbo's refusal of electoral defeat a 'rape of democracy' (Cook 2011:14). Odinga also condemned the ambivalence of the AU in the matter and thus called on the



organisation to ‘develop teeth instead of sitting and lamenting all the time or risk becoming irrelevant’ (Cook 2011:14). As expected, Gbagbo did not take Odinga’s mediation effort seriously and thus, even after making several visits to the country, he did not achieve anything. In fact, Ping’s decision to appoint ‘a lowly premier to mediate between a president and an aspirant’ (Zvayi 2011) was questioned. In a public spat, Ping and Odinga clashed at the AU Summit meeting at the end of January 2011, when the latter accused Gbagbo of clinging to power. Odinga, who was supposed to brief the AU PSC on his mission to Côte d’Ivoire but instead decided to address the media, issued a statement observing that

Cote d’Ivoire symbolizes the great tragedy that seems to have befallen Africa, whereby some incumbents are not willing to give up power if they lose. This refusal is particularly egregious in Côte d’Ivoire’s case, since never has there been such internal, regional and international unanimity among independent institutions about the outcome of a disputed election in Africa (Zvayi 2011).

With the failure of the Odinga mission, on 31 January 2011, the AU PSC established a High-Level Panel on Côte d’Ivoire, composed of the heads of state of Tanzania, Mauritania, Burkina Faso, Chad and South Africa, to find a solution to the political crisis (AU PSC 2011a: para. 6).<sup>5</sup> The Panel decided to constitute a team of experts which, after visiting the country and meeting with the parties involved, reported their findings to the High-Level Panel. The Panel held several meetings in different African capitals and visited Côte d’Ivoire. In the end, whilst the AU PSC adopted the Panel’s proposals including guaranteeing a safe exit for Gbagbo, affirmation of Ouattara as the elected president, and formation of the unity government led by Ouattara but including former presidents of Côte d’Ivoire and people from Gbagbo’s camp, Gbagbo rejected it – with his main lieutenant Pascal Affi n’Guessan observing that ‘the Panel made a proposal we categorically reject. The proposal brought nothing to the table that we did not already know’ (ISS 2011d:10).

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5 The Chairperson of the AU Commission and the President of the ECOWAS Commission were members too.

In the aftermath of the rejection of the Panel's proposal by the Gbagbo camp, the PSC tasked the Chairperson of the AU Commission to appoint a High Representative (HR) for the implementation of the overall political solution (the rejected Panel's Proposal) in Côte d'Ivoire. The HR was given a two week mandate to convene a meeting between the two parties to commence negotiations particularly to develop modalities for the implementation of the proposals (ISS 2011d:10). The Chairperson of the AU Commission appointed former Cape Verde Foreign Minister Jose Brito as HR for the Implementation of the Overall Political Solution proposed by the AU Panel. Ouattara's camp rejected his appointment, citing his relations with Gbagbo and lack of consultations in the appointment process (ISS 2011d:10).

With the AU mediation effort not making any headway, the ECOWAS Authority met on 24 March 2011 and resolved that the crisis in Côte d'Ivoire had 'now become a regional humanitarian emergency', thus 'the time has come to enforce its decisions of 7 and 24 December 2010 in order to protect life and to ensure the transfer of power to Ouattara'.<sup>6</sup> Apropos of this, the Authority 'requested the UN Security Council to strengthen the mandate of UNOCI to enable it to use all necessary means to protect life and property, and to facilitate the immediate transfer of power to Ouattara' (ECOWAS 2011). It should be recalled that prior to the Authority's meeting, fighting between militias supporting Gbagbo and pro-Ouattara groups intensified. For example, western Côte d'Ivoire became a scene of inter-communal clashes, while fighting broke out between the *Forces Nouvelles* who controlled the northern part of the country and government forces.<sup>7</sup> Some of the fighting resulted in human rights violations, which according to some organisations could amount to war crimes and crimes against humanity (ISS 2011b:8).

### **Gbagbo's ouster**

On 17 March 2011, Ouattara signed an ordinance creating the *Forces Republicaines de Côte d'Ivoire* (FRCI), composed of the *Forces armée nationales*

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6 ECOWAS 2011. This decision was presented to the UN Security Council for discussion. See UNSC 2011b.

7 For details see ISS 2011b:8–9.

de Côte d'Ivoire and the *Forces armées des Forces nouvelles* (FAFN), with the aim of undertaking a military campaign to 'protect the civilian populations, pacify the country and restore legality' (AU 2011b:2). In doing this, Ouattara had become convinced that '[Gbagbo] would never cede power voluntarily and peacefully, and that all political and diplomatic efforts only served to give him more time' (AU 2011b:2).

The fighting pitted the FRCI against the *Forces de défense et de sécurité* (FDS) and the pro-Gbagbo militias. The military campaign was short and the battle for Abidjan, which began on 31 March 2011, also involved helicopters of UNOCI and the *French Licorne*, which were used to destroy the heavy weapons of the pro-Gbagbo camp, pursuant to UNSC resolution 1975 (2011) (AU 2011b:2). On 11 April 2011, the final attack was launched on the residence of Gbagbo, upon which he was arrested by the FRCI and subsequently transferred to the north of the country where he was held in detention until he was transferred to the ICC. The role of France in bringing to an end Gbagbo's presidency was not lost to observers. France sent in scores of soldiers and some 30 armoured vehicles to help arrest Gbagbo (Bremer 2011).<sup>8</sup>

The arrest and detention of Gbagbo and the swearing-in of Ouattara as president of Côte d'Ivoire marked the end of the country's post-election crisis with the AU Chairperson declaring 'the AU which was actively involved in the resolution of the crisis should ... fully play its rightful role in consolidating peace in Côte d'Ivoire' (AU 2011b:5). But this view was not supported by some.

### **3.2 Libya**

#### **The 23 February PSC Communiqué**

Just one week after the Libyan crisis began, the PSC, at its 261<sup>st</sup> sitting held on 23<sup>rd</sup> February 2011, discussed the crisis and, in the ensuing communiqué, took a decision to 'urgently dispatch a mission of Council to Libya to assess the situation in the ground'. However, there was no mission which was dispatched 'urgently'. The failure of the PSC to act without delay set the basis

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8 It is reported Ouattara supporters ran up to foreign correspondents in Abidjan shouting 'Thank you France, Thank you Sarkozy.'

upon which it came to be marginalised by the UNSC. Had the PSC immediately established the fact-finding mission, it would have been very difficult for the UNSC to ignore it. Besides this, the Charter of the UN recognises the existence of regional arrangements or agencies to deal with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided the activities undertaken are consistent with the purposes and principles of the UN. Moreover, regional arrangements are enjoined to make every effort to achieve pacific settlement of local disputes through such regional arrangements before referring them to the Security Council. Thus, the failure of the PSC to immediately establish the fact-finding mission paved the way for the UNSC to pull the rug from the feet of the AU in the Libya crisis.<sup>9</sup>

The AU having failed to act without delay allowed the UNSC to seize the initiative. On 26 February 2011, acting under Chapter VII, the UNSC passed Resolution 1970 which effectively precluded the AU from being the lead organisation to deal with the Libya situation. Once this resolution was passed, it meant that whatever the AU would do in future regarding the Libyan situation, would be secondary to what the UNSC did; as it must be remembered that the UNSC has the primary responsibility for maintaining international peace and security (UN [1945]: art. 24(1)). One thing is clear though, the AU opposed any use of force to remove Gaddafi (Kioko 2012).

### **The 10 March PSC Communiqué**

The next meeting of the PSC on Libya was held on 10 March 2011 against the backdrop of fast-developing events, as Gaddafi's forces were threatening to overrun the rebel stronghold of Benghazi, while there were calls to the UNSC from the other regional bodies (such as the Arab League) to impose a no-fly zone

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9 In AU doctrine, fact-finding missions are preceded by advance assessments of the situation on the ground by military personnel. In this case, a military assessment team of the AU was dispatched and managed to reach Cairo, Egypt. Whilst the Gaddafi regime gave it security guarantees when it would reach Tripoli, the Transitional National Council (TNC) in Benghazi refused to give such guarantees and thus the assessment mission aborted.

on Libya to protect civilians.<sup>10</sup> One would have expected the PSC, faced with the deteriorating situation in Libya, to act decisively, for example, by requesting an intervention from the Union in order to restore peace and security. However, the PSC did not do such a thing, but instead took two important decisions which also came to be overtaken by the UNSC action. First, it established a roadmap through which the crisis could be resolved, including calling for: urgent African action for the cessation of all hostilities; cooperation with the competent Libyan authorities to facilitate the timely delivery of humanitarian assistance to the needy populations; protection of foreign nationals, including African migrants living in Libya; and adoption and implementation of political reforms necessary for the elimination of the causes of the current crisis. Secondly, the PSC established an AU High-level ad hoc Committee (hereinafter ‘ad hoc Committee’) on Libya, comprised of five heads of state and government, together with the chairperson of the Commission. The committee was mandated to: engage with all the parties in Libya and to continuously assess the evolution of the situation on the ground; facilitate an inclusive dialogue among the Libyan parties on the appropriate reforms; and, engage AU’s partners, in particular the Arab League (AL), the Organisation of the Islamic Conference (OIC), the European Union (EU) and the UN, to facilitate coordination of efforts and seek their support for the early resolution of the crisis. However, as subsequent events were to show, the two decisions were overtaken by events happening elsewhere.

In the days after the establishment of the ad hoc Committee, the UNSC passed resolution 1973, which authorised member states that have notified the UN Secretary-General, acting nationally or through regional organisations or arrangements, and acting in cooperation with the UN Secretary-General, to ‘take all necessary measures’ to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi. This paved the way for military attacks against Libya by the western powers. The resolution also imposed a no-fly zone over Libya, which meant that the ad hoc Committee could not travel to the country without UN authorisation.

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10 See The outcome of the Council of the League of Arab States meeting at the Ministerial level in its extraordinary session on The implications of the current events in Libya and the Arab Position, Res. No.: 7360, Cairo, 12 March 2011, para. 1.

After passing resolution 1973 (March 2011), the UNSC did not pass any other resolution on Libya until September 2011 when it passed resolution 2009 (UNSC 2011c), which *inter alia* established the UN Support Mission in Libya (UNMIL). Nevertheless, various institutions of the AU continued to have their attention drawn to the crisis. For example, at its 10<sup>th</sup> meeting held on 12 May in Addis Ababa, the AU's Panel of the Wise expressed deep concern at the situation in the country (AU 2011c: paras. 13 and 14). It thus called for an immediate and complete ceasefire, and an end to all attacks on civilians.

### **Marginalisation of the AU?**

If there had been any lingering doubts about the marginalisation of the AU in the Libya crisis, UNSC resolution 1973 confirmed it. The resolution explicitly recognised the important role of the Arab League states in matters relating to the maintenance of international peace and security in the region (UNSC 2011a: para. 5). The Council only took note of the PSC's decision to send the ad hoc Committee in its operative declaration of the resolution (UNSC 2011a: para. 2). In other words, the resolution recognised the primacy of the Arab League over the AU in the crisis. Appearing on the BBC programme *Hard Talk* on 25 March 2011, Jean Ping, the Chairperson of the AU Commission, decried the sidelining of the AU in the crisis (BBC *Hard Talk* 2011). He raged against the fact that the international community was not consulting the AU. He said, 'Nobody [has] talked to us, nobody has consulted us'. Asked if he felt that the AU was being ignored, he answered, 'totally, totally'. Nevertheless, even the Arab League became concerned with the military action in Libya once it started. In a statement on 20 March 2011, the League's Secretary-General, Amr Musa, issued a strong statement claiming that the air strikes went beyond the scope of the resolution to implement the no-fly zone (ISS 2011b:7). He said he was concerned about civilians being hurt in the bombing. This raised serious concerns on the commitment of the League's resolve and the durability of the international unity in the Libya crisis.

The final nail in the marginalisation of the AU in the crisis was driven into the coffin when the UNSC refused the ad hoc Committee to fly to Libya to meet Gaddafi and the rebel leaders. On 19 March 2011, the Panel met in Mauritania's

capital Nouakchott and resolved inter alia to travel to Libya to sell to the different stakeholders the AU's roadmap to resolve the crisis. In conformity with the requirements of resolution 1973, the ad hoc Committee sought the permission of the UNSC to travel to the country which was denied (AU 2011a: para. 6). The ad hoc Committee in its Communiqué after the meeting could only inter alia reaffirm its determination to carry out its mission in the face of the worrying developments in the situation and the recourse to an armed international intervention (AU 2011a: para. 9). It also called for restraint and undertook to spare no effort to facilitate a peaceful solution within an African framework, duly taking into account the legitimate aspirations of the Libyan people.

The ad hoc Committee, however, was able to travel to Libya from 9 to 11 April 2011, where on 10 April it met with Gaddafi, who accepted the AU roadmap on Libya including the specific issue of 'the ceasefire and deployment of an effective and credible monitoring mechanism'.<sup>11</sup> But when it went to Benghazi the next day to meet the TNC, it was a different matter. Despite extensive discussions between the Panel and the TNC, there was no agreement 'due to a political condition put forward by the latter as a prerequisite for the urgent launching of discussions on the modalities for a ceasefire' (ISS 2011c:11). Thus it was not possible at that stage to reach an agreement on the crucial issue of the cessation of hostilities. The political condition advanced by the TNC was that it could not negotiate an end to the crisis unless Gaddafi relinquished power.

Underlying the TNC's refusal to accept the AU's roadmap there was a number of reasons. First, the AU exhibited a timid stance vis-à-vis Gaddafi as it was the only major organisation that did not call for the imposition of sanctions or a no-fly zone when the crisis broke in Libya. Because of this, the opposition saw it as having no credibility and that is why it was greeted by protesting demonstrators when it arrived in Benghazi..

Secondly, there was little incentive or enthusiasm on the part of the TNC for accepting the AU's proposition for an inclusive transition.

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11 AU PSC 2011d: para. 6. See also ISS 2011c:11 (observing that Gaddafi fully accepted the AU's proposed roadmap).

Thirdly, the AU's roadmap received very little support from countries at the forefront of military intervention namely: France, the United Kingdom and USA. In fact, all of them called on Gaddafi to leave office (BBC News 2011)<sup>12</sup> and thus they were not willing to even countenance a political process that did not include the departure of Gaddafi.

In the end, the AU roadmap, which was a major political framework to end the crisis, was snubbed by the TNC because it did not mention that Gaddafi had to leave power.

## **4. Observations**

### **4.1 Divergent positions among the AU members**

The Côte d'Ivoire and Libya crises demonstrated the failure of African diplomacy. First, the crises exposed the fissures within the AU members and thus the failure of the organisation to mount a united front when such challenges arise. In the Côte d'Ivoire case, conflicts among the AU members resulted in the failure of the organisation to effectively deal with the issue. Whilst the AU generally concurred with the position of ECOWAS that Gbagbo be removed from power, even by force, some individual AU members took divergent positions. For example, within ECOWAS, Burkina Faso, Senegal, Sierra Leone and Nigeria endorsed the use of force (ISS 2011b:10). On the other hand, Gambia recognised the legality of Gbagbo's election and opposed the contemplated military intervention (Cook 2011:11). Liberia and Mali expressed concern over the consequences of the military intervention. In fact, the latter's President Amadou Toumani Toure averred that 'when Côte d'Ivoire has a cold, the whole of the West African Economic and Monetary Union (UEMOA) starts sneezing' (ISS 2011b:10). Thus he expressed preference for 'financial pressure over [military] intervention' (ISS 2011b:10). Far afield, Ugandan President Yoweri Museveni, called for an investigation of the election process and rejected the validity of international recognition of Ouattara and its dismissal of Gbagbo's claimed win (Cook 2011:11). Angola came out strongly to support the government of Gbagbo

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12 The leaders observed that '... it is impossible to imagine a future for Libya with Gaddafi in power ... Gaddafi must go and go for good'.



(Campbell 2011),<sup>13</sup> while South Africa, one of the first mediators in the dispute opined that the poll discrepancies marred the vote and so mediation between the parties was the answer (Cook 2011:11).<sup>14</sup>

The same thing happened in the Libya case where three positions emerged among the members to deal with the situation. The first position advanced by inter alia Uganda, South Africa and to an extent Kenya,<sup>15</sup> accepted UN Resolution 1973 in principle, but was critical of the way the NATO countries were conducting their operations in Libya. To these countries, NATO's operations went beyond the contours of Resolution 1973 and in effect were part of the 'regime change doctrine'. The second position, advanced by the likes of Ethiopia,<sup>16</sup> Gabon, Rwanda and Senegal, supported the NATO attacks on Libya, with President Kagame, in particular, arguing that 'the Libyan situation had degenerated beyond what the AU could handle' (Daily Monitor 2011).<sup>17</sup> The third position, which was really not different from the first, and advanced by the likes of Zimbabwe, Algeria and Nigeria, opposed NATO's operation in Libya and viewed it as Western countries using the UN to get rid of the Gaddafi regime. In fact, President Mugabe accused NATO of being a 'terrorist organization' fighting to

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13 The Economist reported that Gbagbo was being protected by inter alia '... 300 soldiers lent to him by President Dos Santos ...'. See story 'Turmoil in Côte d'Ivoire: Will the bad loser be squeezed out?' (The Economist 2011).

14 See also ISS 2011a:13.

15 Kenya's Vice-President, Kalonzo Musyoka, was quoted observing in Parliament that 'he preferred negotiations with Gaddafi rather than the aerial bombardments by the French, British and United States forces'. He said this was his personal view and thus it was not clear if it was that of the government too. See Obbo 2011.

16 Prime Minister Meles Zenawi is reported to have philosophically remarked that 'there was a clear basis under the Constitutive Act for such action, if a country's system does not provide avenues for dissent or kills its own people'.

17 Daily Monitor, 23 March 2011. See story 'Rwandan President Kagame endorses Libya bombings' at <http://mobile.monitor.co.ug/News/-/691252/1131432/-/format/xhtml/-/2kwqh/-/index.html> (accessed 25 March 2012).

kill Gaddafi (Radio Netherlands Worldwide (RNW) 2011). So with these varied positions, the AU could not mount an effective intervention in the crisis.<sup>18</sup>

## **4.2 Failure to take a position on the future of Gbagbo and Gaddafi**

Under the AU plan for resolving the Côte d'Ivoire crisis, Gbagbo would be given safe passage into exile with his party being part of the national unity government. But South Africa, a member of the AU Panel on Côte d'Ivoire, did not agree with this position. In fact, its position as stated by the Vice-Foreign Minister Ibrahim Ibrahim on 22 February 2011 was that a power-sharing formula be crafted, which would involve rotating power with a 24 month period for each of the 'two presidents' (ICG 2011a:14).<sup>19</sup> Other countries, such as Gambia, came out strongly in support of Gbagbo (ISS 2011b:10). In the end, the diverging positions on Gbagbo's future muddled the diplomatic situation and thus gave him more time in the presidency.

In the case of Libya, the AU failed to pronounce itself on the future of Gaddafi in and after the negotiation of the political solution to the crisis. While western permanent members of the UNSC – France, United Kingdom and the United States – were resolute in their demand that Gaddafi relinquish power (BBC News 2011), the AU was ambivalent on the issue. Asked if Gaddafi had to leave power, President Jacob Zuma was of the view that 'if he (Gaddafi) had to go, the issues to be addressed were when, where and how that happens' (ISS 2011e:10). At the 17<sup>th</sup> AU Summit meeting in Malabo, Equatorial Guinea, some African officials announced that Gaddafi should surrender power in order for a democratic transition to take place. The UK's Minister of the UN and

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18 The indictment of President Bashir by the International Criminal Court (ICC) in March 2009 also elicited varied positions within the AU. Whilst the position of the organisation is not to cooperate with the court to execute the arrest warrant, individual members of the organisation such as Botswana, South Africa and Uganda broke ranks and stated that they would arrest the Sudanese leader and hand him to the ICC, if they ever got a chance. Thus the AU's position on the matter sounds hollow.

19 This is what has been called the 'Burundi Formula' where under the Arusha Accords of 2000 a Hutu and a Tutsi president took turns in leading the country during the transition period until elections were held.

Africa, Henry Bellingham, was quoted saying that most foreign ministers at the Malabo meeting were telling him privately that they felt Gaddafi should go (ISS 2011d:9). But the final decisions of the Assembly on Libya called for no such action. Moreover, being the only major organisation that had not called for the imposition of sanctions or a no-fly zone on Libya, the AU carried very little credibility especially with the rebels. This could partly explain why they (the rebels) were reluctant to buy into its political roadmap.

### **4.3 The AU overtaken by events**

As we noted in the introduction, forces loyal to Ouattara launched an offensive to remove Gbagbo from power at the end of March 2011. On 11 April 2011, they managed to enter the presidential palace in Abidjan and arrested Gbagbo. Thereafter he was placed under detention, first in Abidjan's *Hôtel du Golf*, and later at Korhogo, in the north of the country, under the protection of UNOCI. At the end of November 2011, Gbagbo was transferred to The Hague and placed in the custody of the ICC. This was the result of a warrant of arrest requested by the ICC Prosecutor on 25 October 2011, and issued by the court under seal on 23 November 2011 (International Criminal Court 2011).<sup>20</sup> Gbagbo is facing four counts of crimes against humanity.<sup>21</sup>

As we noted above, French troops played a key role in the final ouster of Gbagbo, especially through the air strikes they carried out against heavy weapons belonging to troops loyal to him. In the aftermath of Gbagbo's ouster, the AU

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20 The arrest warrant against Gbagbo was unsealed on 30 November 2011, when the suspect was transferred to the ICC detention centre at The Hague, by the Ivorian authorities. Côte d'Ivoire is not party to the Rome Statute but accepted the jurisdiction of the ICC on 18 April 2003. On 14 December 2010 and again 3 May 2011, the Presidency of Côte d'Ivoire reconfirmed the country's acceptance of this jurisdiction. On 3 October 2011, Pre-Trial Chamber III granted the Prosecutor's request for authorisation to open investigations *proprio motu* into the situation in Côte d'Ivoire with respect to alleged crimes within the jurisdiction of the Court, committed since 28 November 2010, as well as with regard to crimes that may be committed in the future in the context of this situation.

21 These include: a) murder, b) rape and other sexual violence, c) persecution and d) other inhuman acts, allegedly committed in the context of post-electoral violence in the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011. On 5 December 2011, Pre-Trial Chamber III held an initial appearance hearing and set the date for the confirmation of charges hearing to start on 18 June 2012.

was left to finally declare that 'the country [was] back to normal institutional situation, with the restoration of legality throughout the national territory' (AU 2011b:5). The organisation triumphantly noted that 'it had played an active role in the resolution of the crisis' (AU 2011b:5). But had it? From the exposition that we have made above, the organisation's mediation efforts were rebuffed time and again by the interlocutors in the Côte d'Ivoire crisis. At some point during the crisis, the AU mediation efforts resulted in the stifling of the ECOWAS resolve to use military force to oust Gbagbo. Therefore we are left to contemplate on what may have been had ECOWAS been allowed to deal with the issue.

In the case of Libya, on Sunday 21 August, rebels launched an offensive to take Tripoli from Gaddafi's forces. They made rapid progress and by the end of the week had overrun much of the capital although sporadic fighting continued in parts of the city. Whilst Gaddafi went into hiding, he continued making radio broadcasts urging his followers to fight and take back the city. The AU ad hoc Committee and the PSC met in Addis Ababa, Ethiopia, to craft a response regarding the events in Libya (Butagira 2011:4).<sup>22</sup> In the final communiqué of its 291<sup>st</sup> meeting, the PSC declined to recognise the TNC as the legitimate authority in Libya (AU PSC 2011e). Citing Article 30 of the Constitutive Act of the AU which bars governments which come to power through unconstitutional means from participating in the activities of the organisation, the PSC reaffirmed its stand that all the stakeholders in Libya come together and negotiate a peaceful process (AU PSC 2011e: para. 5). This position would involve the inclusion of elements from the Gaddafi regime to be part of the new government.<sup>23</sup> But again the fissures that characterised the AU's intervention in the crisis continued. Whilst the ad hoc Committee and the PSC deliberated on the need for the formation of an all-inclusive transitional mechanism to lead Libya in the interim as a new Constitution is drafted to provide for elections, the governments of Ethiopia and

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22 See also Vaughan 2011.

23 The South African government issued a press release upon President Zuma's return from the Addis Ababa meeting and explained that 'there is more than one group that claims authority and support in Libya, and a solution will need to include all of them. They must all come together and negotiate a peaceful process that will lead to the formation of an inclusive transitional government and democracy in Libya'. See South African Government (Pretoria) 2011.

Nigeria recognised the TNC as the authority in charge of Libya (Tekle 2011). Nigeria's move irked South Africa, prompting the Secretary-General of the African National Congress (ANC), Gwede Mantashe, to criticise the country by declaring that it was 'jumping the gun in recognising the rebels as representatives of Libya' (Ohia and Oyedele 2011). In reply, President Goodluck Jonathan affirmed that his government stood by the recognition of the NTC (sic) and that Nigeria's foreign policy would not be dictated to her by the government, party or opinion of another country (Ogbu 2011). Nigeria's recognition of the TNC could have been prompted by Gaddafi's past pronouncements on the country. In March 2010, Nigeria recalled its ambassador to Tripoli following Gaddafi's call for Nigeria to be split into two – one Christian and another Muslim – in the wake of massacres in the northern Nigeria city of Jos (BBC News 2010).<sup>24</sup> Rwanda had earlier also broken ranks with the AU position by reiterating its unequivocal support to the TNC (The New Times 2011). Whilst, up to that point, altogether there were eleven AU members that recognised the TNC, another 41 states had declined to recognise it – thus further deepening the divisions within the organisation in the crisis.

In the end, taking cognisance of the situation on the ground in Libya, and the fact that the TNC had been welcomed at the UN General Assembly, President Teodore Obiang Nguema Mbasogo, President of Equatorial Guinea and Chairman of the AU in late September 2011, announced the recognition of the TNC as the representative of the Libyan people *provided* they formed an all-inclusive transitional government which would occupy the Libyan seat at the AU (The New Times 2011). Of course, the TNC did not establish an all-inclusive government. Nevertheless, with the demise of Gaddafi and the declaration that Libya was totally liberated, the AU had no choice but to recognise and deal with the TNC. This marked the end of the AU diplomatic efforts to end the Libya crisis.

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24 See also Ekpunobi and Adesuji 2010, quoting the President of the Nigeria Senate, David Mark, dismissing Gaddafi's proposition to partition the country as those of 'a mad man'.

## 5. Conclusion

The formation of the AU was precisely aimed at finding African solutions to African problems. The experiences of Somalia and Rwanda in the early 1990s, where state collapse and genocide were allowed to take place respectively, spurred on the African leadership to establish an AU with 'teeth'. In this regard, the African leadership adopted a much more interventionist stance in the organisation's legal frameworks and institutions. However, the Côte d'Ivoire and Libya crises showed that the organisation is far from being a solution to the problems afflicting Africa. Its performance in the Côte d'Ivoire crisis was lacklustre while in the case of Libya, it was first marginalised and then totally ignored by the UN. Generally in both cases the organisation's failure was self-inflicted because had it taken very strong, united and assertive stances when the crises first broke out, possibly it would not have been marginalised and ignored by the other actors.

In the end, in both cases, the organisation was saddled with problems, inter alia of fissures within its ranks resulting in its intervention being feeble. Its members did not speak with one voice, as is often the case, on many issues concerning the continent.

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# A review of the African Union's experience in facilitating peaceful power transfers: Zimbabwe, Ivory Coast, Libya and Sudan: Are there prospects for reform?

*Martin Rupiya\**

## **Abstract**

Succeeding the Organisation of African Unity (OAU), whose main concern had been decolonisation, the African Union (AU) began focusing on enhancing human security and consolidating democracy. The new Union was faced with huge challenges, however. Of 47 Sub-Saharan Africa states that had embarked upon democratisation, 42 failed to transform and democratise. Then, early in 2011, the grassroots in five North African states rose to overthrow their near monarchical regimes and succeeded in spreading the initiative into the rest of the Arab World. The AU found itself engaged in attempts to resolve complex conflict situations, but with the international community as an active participant. With limited resources, but boasting political legitimacy over African member states, the AU intervened into the various crises with mixed results. It was unable, however, to enforce the compelling tools at its disposal – such as mediation forums, suspension of membership, withdrawing recognition of legitimacy and even imposing sanctions on truant political players and member states. It also had to fight a credibility battle as an African organisation not taken seriously,

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\* Dr Martin Rupiya is Executive Director of The African Public Policy and Research Institute (APPRI), Kutlwanong Democracy Centre, Pretoria.

undermined by former colonial powers and marginalised in the international security system. This paper, therefore, seeks to make a critical evaluation of four AU intervention efforts in situations of blocked political-democratic transitions, and to make suggestions on strengthening such efforts and enhancing credibility – in the eyes of ordinary Africans and the international community.

**Abbreviations**

AU	African Union
AUHIP	African Union High Level Implementation Panel
CA	Constitutive Act
CPA	Comprehensive Peace Agreement
EU	European Union
GNU	Government of National Unity
GPA	Global Political Agreement
HAT	High Transitional Authority – in Madagascar
ICC	International Criminal Court
ICG	International Crisis Group
IMF	International Monetary Fund
NTC	National Transitional Council
OAU	Organisation of African Unity
SPLA/SPLM	Sudan People’s Liberation Army/Sudan People’s Liberation Movement
UNSC	United Nations Security Council
WB	World Bank
ZANU (PF)	Zimbabwe African National Union - Patriotic Front
ZESN	Zimbabwe Election Support Network

## **A review of the African Union's experience in facilitating peaceful power transfers**

Since July 2000, when the Constitutive Act (CA) was adopted in Lomé, Togo, establishing the AU as a successor to the OAU – whose primary objective, since May 1963, had been the complete decolonisation of the continent, following the events after the 1884 Berlin Conference that had balkanised and divided up the continent – a new approach to conflict resolution has been ushered in. This is characterised by encouraging member states to create functioning democracies and economic prosperity for Africans, by criminalising unconstitutional changes of governments and actually banning military coups d'état, and finally, by providing the most important innovation in the new era, the right of the AU to intervene in a country where atrocities as grave circumstances, war crimes or genocide were being inflicted upon civilians. (Constitutive Act of the African Union 2000: articles 3 (c), (f), (h) and (k); 4 (d), (h) and (p)). These lofty ambitions that form the framework of the AU have laid the foundations for transforming the continent towards 2015, in line with the Millennium Development Goals.

When the AU member states adopted the CA, another form of inheritance was still in place – one that had deformed the natural progression of the African political system even after the residual tendencies of colonialism. This was the imposition of the cold-war spheres of influence since the Korean War of 1950–53, a global security jacket that had imposed itself on weak and developing countries' political systems (BBC 2012). This ended in 1991 when the Soviet Union collapsed, allowing parts of the world to chart their own different courses of political transformation. It is against these events in the international security system that Africa found itself saddled with the stale African political systems that were in place, designed to uphold and advance external super-power interests rather than those of ordinary Africans. Most were presented as one-party state systems, creating environments in which dictatorships emerged, negating the natural evolution of democratic institutions, norms and practices and therefore stifling internal political freedoms and democracy.

In Egypt, Somalia, the then Zaire and other countries, regimes in power had been truncated, transforming the narrow caste of political elites to serve as proxies for external powers. In turn, the Mobutu Sese Seko-like regimes enjoyed the support of the superpowers, in maintaining the sphere of influence line,

while suppressing and subjugating their own peoples' political freedoms and ambitions. When the oppressive cover of the cold war was lifted, between 1989 and the early 2000s, 47 Sub-Saharan African states embarked upon economic liberalisation to open up trade and investment to global market forces, as well as upon political transformation to embrace multiparty democracy. This was undertaken under the so-called Washington consensus, championed by John Williamson, and supported by the IMF and World Bank amongst others (Williamson 1989; Rodrik 2006). This process was perceived and prescribed as the necessary but specific policy prescriptions, constituting the 'standard' reform package for developing countries.

It is in the implementation of this wide ranging and progressive agenda of the AU, in the intervening period of 2000 to 2012, that serious challenges have emerged which form the focus of this research in order to ascertain what the AU has achieved in the area of facilitating democratic power transfers.

In the last decade, the AU – established as a successor to the OAU whose main concern had been decolonisation – has focused on the dual challenges of enhancing human security and consolidating democracy. In order to achieve this, the AU spent the first part of the decade developing guiding protocols before launching itself, operationally, during the second half.

In 1989, while North Africa remained immune from the winds of democratisation, 47 Sub-Saharan Africa states embarked upon democratisation, seeking to move away from the era of the one-party-state and long-reigning leaders. Within five years, 42 states had failed to transform and democratise. Some of the prominent states included the then Zaire (now Democratic Republic of the Congo), Somalia, Sudan, Burundi, Rwanda, Uganda, Ethiopia, Eritrea, Kenya, Guinea-Bissau, Zimbabwe, Ivory Coast and Madagascar. This confirms Samuel Huntington's assertion of Africa remaining outside his identification of developing states in the Third Wave of Democratisation (Huntington 1992; London 1993).

In January 2011, the grassroots in North Africa rose, almost as one, to overthrow the near monarchical regimes in Tunisia, Egypt, Algeria, Morocco and Libya, succeeding in spreading the initiative into the rest of the Arab World (Bassett and Straus 2011).

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Faced with this twin challenge of recalcitrant incumbents, supported by partisan institutions in Sub-Saharan Africa, succeeding in blocking democratic transitions, and the dizzying speed of the collapse of regimes in North Africa, the AU found itself engaged in complex conflict resolution crises that had the international community as an active participant. In the case of Ivory Coast and Libya, the United Nations (UN) passed compelling resolutions, calling for armed intervention. For the AU, bereft of any integral forces, armed with a series of conflict resolution protocols that are still to be ratified, but boasting political legitimacy over any African member state, the organisation has intervened in the various crises with mixed results.

Based on the episodic and anecdotal evidence so far, the AU appears deliberately weakened, unable to enforce the compelling tools that it has, such as: mediation forums, suspension of membership, withdrawing recognition of legitimacy and even imposing sanctions on truant political players and member states. Meanwhile, the AU is also fighting a credibility battle as an African organisation that is not taken seriously, and is continually undermined by former colonial powers and marginalised in the international security system.

More recently, the AU has begun to flex its muscles as a recognised continental voice from which the international community takes its cue. On 12 April 2012, the AU condemned the capture by South Sudan of Heglig (also known in Juba as Panthou) in a region considered to be under northern Sudanese jurisdiction. On 17 April, the AU condemned and suspended the Guinea-Bissau military junta that had seized power just before the holding of a presidential election. Earlier, on 13 March, the AU had issued a severe reprimand while suspending Mali and the coup leader, Captain Amadou Sonogo, for seizing power from an elected government merely on account of differences of strategy on how to respond to the advancing Touareg rebels and Salafists from the North who had invested the towns of Gao, Timbuktu and Kidal. Much more significantly, the AU led the rejection of a new state by well-armed and fast moving rebels, now in charge of large parts of Mali, who had declared these areas as the new state of Azawad. In the case of Zimbabwe, following the disputed election in March and the

subsequent violent presidential run-off of June 2008, the AU Summit in Sharm El Sheik passed a resolution calling instead for a shared political authority in transitional government under the auspices of the sub-regional body SADC in a process that will yet again end up without a free and fair election.

In Madagascar, the worsening crisis during the first quarter of 2009 witnessed the sitting President, Marc Ravalomanana, forced into exile by the military and his main adversary, Andry Rajoelina – who then took power and established the High Transitional Authority, known as HAT under a French acronym. Faced with this development, the AU and SADC reacted, informed by the 1997 Harare Declaration that banned unconstitutional changes of government. The next steps and their impact have been unprecedented, and have demonstrated the effectiveness of the combination of an assertive sub-regional body, SADC, riding on the back of the well-established and legitimate AU leadership role of consolidating democracy on the continent. The impact has been illustrative.

It is also true that Madagascar is regarded to be within the ‘sphere of influence’ of SADC, with 98% of economic trade from South Africa and Mozambique transported through the Mozambique channel waters, and with – facetiously, against the background of French victory over South African foreign policy in the Ivory Coast crisis – greater resolve by the sub-region to impose itself on the crisis resolution in Madagascar.

The first step taken was to suspend Madagascar from both the AU and SADC membership but not abandon the fate of the ordinary people to the competitive political elites. Hence, in the same breath, both the AU and SADC declared ownership of the conflict management and resolution of the crisis, making themselves the final certifiers of the resolution through the SADC Road Map to which all the actors were invited to participate. Even as this was being announced, over 100 members, apparently chosen by Andry Rajoelina to sit on the HAT, were targeted with personal sanctions as was the country. The AU and SADC were able to convince the World Bank, the International Monetary Fund (IMF), the European Union (EU) and the US special African Growth and Opportunity Act (AGOA) Forum to summarily withdraw aid until the crisis was resolved. According to International Crisis Group (ICG) Africa Report 166 of November

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2010 (ICG 2010), citing the Economic Intelligence Unit, Air Madagascar was banned from flying into the SADC and Africa, 40% of foreign direct investment was immediately lost, income from tourism was reduced by 50%, and 75% of potential investors were scared off from the Island by 2010 or within a year. The same Economic Intelligence Unit also provided evidence of an economic spiral downwards, with GDP in 2008 of 7% declining by 50% to 3.7% in 2009, 2% in 2010 and finally edging into the negative territory at 0.6% in 2011. The impact of sanctions on the overall economy has been dramatic. With severe shortages on the streets, in civil service ranks and even within the private sector, serious shortages of commodities and food stuff began to register, and government began to default and be unable to meet salaries and other basic commitments.

Late 2009 also witnessed the reach and effectiveness of the continental bodies in international diplomacy. Rajoelina, enjoying the tacit support of the French President, Nicolas Sarkozy, visited Paris and through this was able to secure recognition from Pakistan and Turkey for his government. In September, Rajoelina arrived in New York, to attend and address the General Assembly, but Angola, the country who was chairing SADC, successfully had Rajoelina removed from the UN roster, delivering a decisive and humiliating blow to attempts to break ranks with the stated positions on the continent. As we write, Madagascar's parliament has begun to adopt the SADC Road Map into the country's legislation while the leadership has been forced by an assertive and determined AU and SADC to re-consider the initial bravado and attempts to go it alone.

This research therefore seeks to make a critical evaluation of the AU's intervention efforts in dealing with blocked political-democratic transitions, with a view to making suggestions on where and how current efforts can be strengthened in order to enhance credibility in the eyes of ordinary Africans and the international community. This is distinct from examining current democratic reverses, such as in Madagascar, Mali and Guinea-Bissau, where the militaries have seized power and the AU has acted swiftly, suspended membership and forced actors to seek a constitutional way out.



This paper, examining the AU's role and experience of intervention, is presented in chronological sequence, based on date order when the interventions occurred.

Over the last decade, through trial and error, the AU has developed a methodology and model for conflict resolution whose impact on each of the diverse case studies has been tested. The focus of this paper will therefore be on identifying the continuing challenges to the model – with the purpose of informing policy makers and perhaps also leading to the further fine tuning of the methodology. But what is the methodology that has evolved over the last decade, and that the AU – even without substantive authority from member states, but relying primarily on its acquired and accrued political legitimacy – is now applying in its intervention?

The AU's methodology in resolving conflict is characterised by the AU moving decisively to occupy and own the process, playing on its now established political legitimacy on the continent – suggesting to contending parties that they consider entering into a Government of National Unity (GNU); providing a framework of legal reforms including constitutional re-writing to appease historical and aspirational positions; undertaking legal reforms that may or may not result in reforming (discredited) institutions or creating new ones where they do not exist; undertaking free and fair elections, opening to UN and other interested players opportunities of observation, certification and verification; and finally, being involved in the actual transfer of power to entities that are then bestowed the AU's legitimacy.

In assessing the experience and contribution of the AU to conflict resolution on the continent over the last decade, only a selected group of countries, including Zimbabwe (2008), Ivory Coast (2011), Libya (2011) and Sudan, both North and South (2012), is used as examples in this brief case study on intervention. Because this is an article in a journal, which provides limited space for extended presentations, the discussion below is fairly abbreviated, and concentrates on the relationship between tools, impacts and outcomes as a basis to measure the experience and relevance of the AU's intervention in African conflict resolution. The hope is to provide a skeletal but common thread that runs through the case studies in order to draw lessons for contemporary and future actors.

## Zimbabwe

The AU's intervention began in earnest with its deliberations during the 11<sup>th</sup> Ordinary Summit, held in Sharm El Sheik, Egypt, 30 June to 2 July 2008. That was after a disputed election in Zimbabwe on 29 March and a very violent presidential run-off on 27<sup>th</sup> June, which forced the competitor, Morgan Tsvangirai of the Movement for Democratic Change (MDC) into withdrawing so that President Mugabe then 'won with an 85%' result (Ploch 2009a:1–4; ZESN 2008:38, 49, 56–58). With observer teams from SADC, the SADC Parliamentary Forum, and the AU in the country, all condemning the violent election and submitting unanimous reports to the AU Summit, the body refused to recognise the violent presidential results.

However, the 2008 'harmonised elections' in Zimbabwe followed a protracted internal political crisis that had dimensions of external, particularly former colonial, power: Britain and other Western interests having sought to dislodge the former liberation movement and ruling party, ZANU (PF), and President Robert Mugabe. Hence, while condemning the documented state-sponsored violence that had defied the holding of a free and fair election, the discussion document in Sharm El Sheik reveals that the AU was alert to the intersecting domestic and international dimensions present in the political crisis in Zimbabwe (AU 2008:3).

The manner of intervention to resolve the crisis for the AU was firstly to seize ownership by simply making the issue an AU agenda item. This then crowded out any other players with different interests and capacities and signalled to the parties in conflict that the AU was the convener, arbiter and final source of legitimacy for any political institutions that were to function in Zimbabwe. Before the AU 'directly adopted' the resolution of the Zimbabwean crisis, attempts had been made to have the documented human rights violations become a United Nations Security Council item, a process that was halted by Russian and Chinese intervention in New York, arguing that the crisis did not amount to a threat to international security.

Secondly, the AU demonstrated that it would exercise its mandate through the sub-regional body, 'urging SADC to establish a mechanism on the ground in

order to seize the momentum for a negotiated solution'. Third, the AU was explicit in corralling both leading contenders to commit themselves to the process by 'encouraging Zimbabwean President Robert Mugabe and opposition leader Morgan Tsvangirai to honor their commitment to initiate dialogue with a view to promoting peace, stability, democracy and reconciliation' (Global Political Agreement 2008). Finally, the AU provided the framework of its methodology as the instrument to occupy the political vacuum during the transition. It 'also expressed support to the call for the creation of a government of national unity with a clear mandate on three critical areas: exercised shared political authority between the president and prime minister and in the process pacify extreme tendencies and views; provide the GNU with the task of drafting a new constitution and finally, undertake critical legal and institutional reforms before a free-and-fair election is held' (Global Political Agreement 2008).

The intervention by the AU in the political crisis that had gripped Zimbabwe in 2008 decisively removed any doubts amongst ordinary Zimbabweans. It was clear that, on the one hand, the country's political elite, who had sought to use violence and a partisan military to seize power, had been brought into the power-sharing transitional fold (Ploch 2009b), and that, on the other hand, the political opposition – perceived to enjoy Western support although appearing to be the aggrieved party in the stolen election – the SADC region and the international community had to provide the mechanism and road map to resolve the political impasse.

Based on the above, SADC, working through its appointed facilitator, the South African President, reporting to the Troika on Politics, Defence and Security as well as Summits, has since been seized with attempts to compel reluctant political actors who signed the GPA to fully implement its provisions before free and fair elections are hosted. At the time of writing, the initial two-year transitional period that began in February 2009 has stretched to more than 36 months, but the basic formula as defined by the AU is still being followed although not yet complete.

Without passing judgement on a conflict whose defined road map has still not been completed, it is clear that in the case of the 2008 Zimbabwe crisis,

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the AU's decisive action and recognised and respected methodology have been able to stabilise the situation, pacifying restive international and domestic actors who were losing confidence in Zimbabwe's democracy and the rule of law. The intervention has also given the sub-region, SADC, sufficient muscle to act in a context that would have been almost impossible to engage as parties have, without success, tried to use the sovereignty cover to shut out participation by other member states. This was the case when President Robert Mugabe addressed the 88<sup>th</sup> Congress of ZANU (PF)'s Central Committee meeting during which he tried to re-interpret the AU resolution and the facilitator's mandate on 31 March 2012. All this has been overcome, simply by the position adopted by the AU in its wide-ranging resolution on Zimbabwe.

### **Ivory Coast**

Against a background of a protracted conflict between President Laurent Gbagbo and his northern adversary, Allasane Ouattara, each complete with a pliant armed group who had refused to demobilise, the election of 28 November 2010 was now subject to certification by the UN. When a dispute arose, the UN, supported by the sub-regional body, ECOWAS, certified that Ouattara had won the election and should take over the presidency. The AU supported this position. Member states were however, divided, with Angola, Chad, Uganda, the Democratic Republic of the Congo, Gambia, Equatorial Guinea and South Africa deviating from the AU-ECOWAS position and siding with Gbagbo or at least a negotiated power-sharing agreement. Meanwhile, the regional hegemon, Nigeria, adopted a militant position, and prepared to deploy military forces to remove Laurent Gbagbo from office. This approach was supported by UNSC Resolution 1975 and by France, a country that already had forces in the country following earlier UN Peacekeeping Missions' arrangements.

Faced with intransigence from Gbagbo, a military solution eventually became a reality with Ouattara's forces marching from the North, supported by French air cover and limited ground forces, resulting in the routing of Laurent's forces and his humiliating capture (Zounmenou 2011). Ouattara was then installed as the new President.

However, this was unlikely to be a panacea. Both Ouattara and Gbagbo had become so identified with the factional nature of the crisis and the institutions and regional support they drew that neither could be seen as able and capable to wield the country back into stability. What many have argued for is a transitional authority and period of reconciliation that might allow deep-seated sentiments to emerge rather than the rough and ready military victory that we witnessed, bringing Ouattara to power, complete with a French contingent guarding him all the time. The AU may seek to continue to maintain a close watch on that country, as this research has shown a number of pointers towards the resumption of conflict. First, the Ivory Coast's protracted conflict had left the country divided between north and south on economic lines, based on a perception of foreigners who had appropriated the best lands and are now central to the cocoa production. The country was and continues to be split on religious lines, with the North seen as Islamic and the South as Christian – a phenomenon that is also present, at least in the perception of neighbouring states' support. To this end, support for Ouattara by the Christian Nigerian President, Goodluck Jonathan, was seen as coming at a time when the latter was desperate to placate and muster the Moslem vote in order to retain his stay in office.

The preliminary evaluation of Ouattara's rule is that the country has refused to be pacified and conflict drivers are not far from the surface. If these are not attended to soon, Ivory Coast is likely to go into convulsion within the next five years.

## **Libya**

As we have tried to show, when what is now called the Western consensus became the driving force behind economic structural adjustment and nuanced democratisation in Latin America and Sub-Saharan Africa during the 1990s, the oil-producing Arab states in North Africa, under decades of monarchical rule by families and militaries, remained largely untouched. An international conspiracy had fashioned different roles for different regions. However, when in December 2010, a destitute student in Tunisia, Aziz Bouziz, set himself on fire in frustration after being spat on by a police officer, his action set the region ablaze. By 2011, Libya was gripped in the wave of the Arab Uprising that

began in Tunisia, toppled the Mubarak regime in Cairo, Egypt, in 18 days, and later influenced dissent in Benghazi against the 42 year-old rule by Colonel Muammar Muhammad Abu Minyar al-Gaddafi. Witnessing the riots on the streets, Gaddafi responded by calling for a 'house-to-house search in order to vanquish the rats'. The call was a prelude to launching a vicious military attack on the population in a development that soon forced the world to consider action in protecting civilians. However, it was the competing regional block, the Arab League, that first took the decision to act against Gaddafi in support of the civilians, which formed the basis of the UNSC resolutions 1970 and 1973 on Libya (International Coalition for the Responsibility to Protect 2011). The latter, UNSC resolution 1973, which authorised 'all measures necessary, offered protection of civilians, an oil embargo as well as imposition of a no-fly zone,' was supported by South Africa (Adebajo and Paterson 2011:29;<sup>1</sup> Kornegay 2011). A coalition of the willing was invited to come together and confront the Libyan armed forces and impose the will of the UN in assistance with the opposition, organised as the National Transitional Council (NTC). However, as it later turned out, the North Atlantic Treaty Organisation (NATO), particularly Britain and France, used Resolution 1973 as licence for open regime change. Because of this, participation by the AU was subject to seeking permission to enter the region and Libya from NATO, leading the military operation. The AU publicly condemned the 'one sided interpretation of the Libyan resolution' passed by the UNSC, including South Africa, a non-veto power that had participated in the passing of Resolution 1973 and the obvious 'marginalisation of the AU in the management of the Libyan conflict' (Rizvi 2011). In spite of the obvious limitations, the AU, between 10 and 25 May, passed decisions on the Peaceful Resolution of the Libyan Crisis in a meeting in Addis Ababa and established the High Level Ad Hoc Committee on Libya with the mandate to establish a Road Map (AU 2011: paras. 3, 8). These efforts were later followed up with a special summit on 30 June 2011 in Malabo, Guinea-Bissau, when a Draft Road Map, Ceasefire, Transitional Government and Elections strategy was suggested as constituting the 'African solution' to the Libyan crisis. The Foreign Minister

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1 See sections 'West Africa: Côte d'Ivoire' (pp.19–21), 'The Horn of Africa: Somalia, Darfur and South Sudan' (pp. 25–28), and 'North Africa: Libya and the "Arab Spring"' (pp. 29–32).

attending the Malabo summit rejected the offer, however, and by 1 July, credible reports emerged of Gaddafi's role in blocking movement on the AU resolutions (Voice of America 2011).<sup>2</sup> Meanwhile, the NTC was also being supported by the International Criminal Court (ICC), which now sought the arrest of Gaddafi, his son, Saif al-Islam Gaddafi, and the Intelligence Chief for crimes against humanity and wilful killing of civilians. Secondly, even where the AU hosted an important meeting on Libya in Guinea-Bissau (under the Chairpersonship of the Guinea-Bissau President), Col Gaddafi and his ministers refused to adopt the AU position and methodology as outlined. Over the next seven months, a bitter civil war was prosecuted, ending in August 2011 with the defeat and public assassination of Gaddafi. Again the AU demonstrated lack of policy cohesion when the incoming NTC was recognised by 17 African member states – significantly including Nigeria and Ethiopia, the seat of the AU – at a time when the continental body was still to move from non-recognition of unelected and unconstitutional changes of regimes. Confronted with the popular changes of power in the Arab Uprising states, this AU protocol now appears archaic and highly conservative and must be urgently reviewed.<sup>3</sup>

The Libyan experience, in which the AU was first shielded from undertaking a much more neutral role by the Arab League and the UNSC, demonstrates the challenges faced by the continental body in its attempts to be relevant within a highly competitive international security framework.

However, this type of international double standard, characterised by actors in pursuing hidden and undeclared agendas in their participation in African conflicts, should inspire the continental body to try to quickly insulate external interests and influence once a conflict breaks. Secondly, the rule by Gaddafi for over 42 years and the collusion of the oil-consuming countries in allowing long periods of dictatorial misrule of societies in the Arab oil-producing states, including those in North Africa, are also to be condemned. Third, Gaddafi and his senior ministers ignored the AU intervention, making it impossible for the continental body to remain relevant in the crisis. As a result of its lack of leverage

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2 See also reports by the same broadcaster, 11 April: Gadhafi accepts AU Road Map.

3 Cf. Tostevin 2011.

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with Gaddafi and his regime, the AU and its recommendations were simply brushed aside as NATO and leading powers in the UNSC created the solution via the NTC that, even as we write, has not brought complete peace and unity in Libya. Furthermore, it is also true that the sharp racial and ethnic divide between North Africa and Sub-Saharan Africa, artificial as it seems, was emphasised and reinforced by the Libyan crisis.

The African Union, just as the Arab league, was in support of the UN Security Council Resolutions 1970 and 1973 ... the UN Security Council, did not expressly detail the mode of operation of Resolution 1973. NATO's interpretation of protection of civilians also includes bombing of Gaddafi's military depots and communication infrastructure; while France resorts to arming the insurgents who have decided to fight all the way to Tripoli ... A number of countries that initially supported the resolution, including South Africa, took issue with this, insisting that it was outside the parameters of the Resolution, and effectively constituted facilitating a regime change in Libya (Reuters News Agency 2011).

Next, even as the AU tried to present a united front, when faced, after 7 months of fighting, with the question of recognition of the NATO-inspired NTC, 17 African countries, including Ethiopia and Nigeria, broke ranks with the AU position and recognised the new government – closing the sorry AU chapter of participation in the Libyan crisis. Finally, the question of the ICC operations on the continent and the response by the AU have become mired in controversy, acrimony and recriminations. In the case of the Sudanese leader, Al Bashir, the AU has passed a resolution calling on African member states to ignore the call by the ICC to arrest him. In the case of Libya, the AU's reconciliation-seeking methodology and intervention also came up against the ICC calls and international arrest warrants on Gaddafi, his son Saif and his Intelligence Chief. This further undermined the AU and resulted in the hardening of positions by those targeted. The same quandary now appears to face the NTC in power in Tripoli, as they are uncertain on whether or not they can be viewed as lacking sovereignty and as unpatriotic Western lackeys if they allow Saif to be tried by the ICC and not by Libyan courts.



## Sudan

The increasingly assertive AU has begun to flex its muscles in its latest intervention in the Sudanese conflict between Khartoum and Juba after the Comprehensive Peace Agreement (CPA) of 2005 eventually resulted in the creation of a new state of South Sudan on 9 July 2011. Months into the establishment of the two-states solution, fighting has erupted yet again following the occupation of the disputed Heglig oil-producing town located on the border with the two. Heglig produces about 75% of Sudan's oil at the moment, quantities that represent over 98% of state revenues. Threatened with the disintegration of the new state and outbreak of yet again protracted war in the Sudan, the AU launched itself into the matter, positioning itself above the two states.

Clear on how the parties are known for their reluctance to engage in negotiating talks unless coerced and compelled, the first shots that were fired by the AU was through issuing an ultimatum, compelling both states to reach a negotiated agreement within three months from 25 April 2012. Continued fighting in the Sudan has caused the AU and other international bodies to step in and be responsible for huge humanitarian concerns while the political elite and militaries continued to fight. Next, in a demonstration of 'ownership' of the resolution of the crisis, the AU submitted its 7 Point Plan for adoption by the UNSC, specifically and significantly securing the endorsement of the USA and China, under Article 41 of the UN Chapter 7, which will allow the UN to impose sanctions if the deadline is not respected. The UNSC has since voted in favour of the AU Road Map and time lines, compelling the two parties to stop fighting and return to the negotiating table within the stipulated time if they are to avoid automatic sanctions (Chicago Tribune 2012).

Significantly, at the height of the conflict, the South Sudanese leader, President Salvir Kirr, undertook an official visit to Beijing, China, a country that is already working very closely with President Al Bashir in North Sudan. During the visit, Kirr has been able to secure a US\$ 8 billion loan to build hydro-electric dams, roads, hospitals in most of the provinces and 5 universities, and to fund other development programmes. This demonstrates the extent of the involvement and leverage of the Chinese in the South Sudanese economy and political decision

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making. Recovery of the loans is obviously based on expected oil revenue in the future (Sudan Tribune 2012). The history of the US as part of the key players that propelled the adoption and implementation of the CPA of 2005 has been well documented. Moving in a fast-forward mode to April–May 2012, the AU's strategic positioning on the resolution of the crisis in Sudan becomes apparent. Addis has taken effective steps to own the process and remain the sole arbiter and has appropriated to itself the certification of when and how the crisis is ended.

The 7 Point Plan conforms, almost to the letter, to the model and methodology that have been cited and are now becoming typical of the AU approach: a holding ceasefire, a negotiated settlement, a transitional period during which a Road Map is agreed upon – in this case led by the AU High-Level Implementation Panel (AUHIP) chaired by South African former President Thabo Mbeki.

This is creative and innovative, leveraging the highest international security system body to publicly endorse while subordinating itself to the primacy of the African solutions crafted in Addis Ababa – that has a moral and political legitimacy superior to that of two sovereign member states. This is unprecedented and must be recognised for its innovation. Furthermore, there is a history of international interests and super-power involvement in the Sudanese conflict as a result of race, ethnicity, regionalism, commercial oil interests and geo-political consideration – as conceived from the perspectives of the Arab League and the AU.

There has been surprising reaction to the action by the AU. South Sudan is calling for their crisis to be resolved through IGAD and not through the 'seemingly biased AU', as revealed in an address by Pagan Amum, Secretary-General of the SPLA/SPLM, at Chatham House in London, on 1 May 2012. Meanwhile, Khartoum has rejected this preference to submit the issue to IGAD while still being reluctant to follow the AU route. In their opinion, IGAD, where Uganda is a member, includes countries that have openly sided with South Sudan and are prepared to do more with South Sudan in continuing the war mongering.

Meanwhile, IGAD itself is wracked with internal and regional conflict. While North and South Sudan are engaged in heightened conflict and war, Ethiopia

and Eritrea are in the same category, which rules out four members of a seven-member organisation from attending normal sittings while they concentrate on internal security situations. Of the other IGAD members (Djibouti, Kenya, Somalia and Uganda), Somalia is a collapsed state, the only one on the continent. It should be added, however, that a recent Somali Conference hosted in London (March 2012) has sought to act as a precursor to the revival of a new state. Uganda, Ethiopia, Rwanda, and, more recently, Kenya have deployed troops in Somalia in an attempt to root out the al-Shabaab, a previous youth wing of the Islamic Courts Union (ICU) that was dismantled by military action about half a decade ago. Such a sub-regional body is obviously not organised to offer mediation and negotiation services to the war situation that has emerged in the Sudan.

### **Analysis – Is the methodology working?**

Over ten years, the AU Peace and Security Council has emerged as a decisive international and continental player. It has employed a methodology that has developed through trial and error, a mechanism that has been challenged not only by the UNSC (Resolution 1973) but even by member states on the continent. In this way the AU has managed to wield its accrued political legitimacy and authority, on behalf of ordinary Africans, to enforce stability, the rule of law and relative economic activity in cases of extreme political collapse and fragility. In Libya, the mechanism was unable to work as outside interests preferred to work with the Arab League while marginalising and excluding the AU from being part of the conflict management and resolution matrix. Today, challenges of political stability in Libya, Egypt and their over-flow into Mali, Niger, Mauritania, Chad and even Sudan have been left in the lap of the AU to react to. Meanwhile, the unprecedented but direct challenge to the Sudanese states in Juba and Khartoum has shown a confidence amongst officials at the AU that is refreshing. Not only has the AU ring-fenced the resolution of that conflict within the 'African Solutions' genre, but this also comes at a critical time for the organisation's leadership. The AU Commissioner, Dr Jean Ping, is in the throes of fighting for his tenure of office, challenged by South African Dr Nkosazana Dlamini-Zuma, representing SADC who have expressed a desire to

lead the continental organisation for the first time. In the January Summit in Addis Ababa, the voting for the Commissioner's post was inconclusive and this has now been set aside – after a series of inconclusive meetings in Benin and elsewhere – for resolution at the June Summit in Lilongwe, Malawi. Certainly the working relationship between the Commissioner and the Commissioner, Peace and Security, Ambassador Ramtane Lamamra, has provided clarity and integrity that has won the respect of allies and foes in the international security system. The threat remains at home, around the potential negative reaction by political elites in charge of the different member states on the continent.

The point is therefore this, the AU officials adopted a high profile and challenged member states politically at a time when the latter may decide to water down and reduce the officials to mere spectators in the ensuing power struggle. Africa and the AU Peace and Security agenda stand at the cross-roads. This is a reality that would take conflict resolution on the continent back to the period before the 1997 adoption of the Harare Declaration on unconstitutional changes of government. It is also true that Africa still has potential conflict states, where long-serving leaders have to create adequate safeguards through credible institutions before undertaking free and fair elections to usher in democratic governments. Without this in place, the AU has to continue to be on standby as we have recommended in the Ivory Coast case study. But who are some of the states likely to implode if care is not taken to cajole the leaders to undertake rapid and long-term transformation in order for the continent to overcome the hiccups of 1989 and join the Fourth Wave of Democratisation when it comes? In the context of this research and the type of methodology and mechanism for conflict resolution reviewed, the fragile democracies in Ethiopia, Uganda, Rwanda, Central African Republic, Chad and Togo may be considered as countries that require active encouragement to build credible institutions now and in the future in order to avoid falling into the collapsed state situation as we have noted in Somalia.

## **Conclusions**

In 1989, 47 Sub-Saharan states attempted to democratise, according to the much discredited Washington Consensus, and within five years, 42 had failed.

In January 2011, the rest of the continent was spurred by the Arab Uprisings in North Africa. Today, Morocco, Libya and Egypt are still mired in deep crises, inviting more internal instability that has the capacity to undermine sub-regional and even continental stability. Africa is faced with the challenge to transform from one-party-state to full democratisation, even though this has been stifled by external and local political elites since decolonisation in the 60s. Now the AU has been established, and has in the last ten years built and refined a working methodology for those states failing to make the grade and exposing their peoples to machinations and skewed interventions by external forces. This is crafted on:

- working through its sub-regional pillars of economic and security structures in Southern (SADC), Central (ECCAS), West (ECOWAS) and East Africa (IGAD), but with no meaningful representation in North Africa;
- imposing or compelling a ceasefire;
- adopting the primary role as the conflict management and resolution body;
- calling parties to agree to shared political authority during a defined transitional period;
- allowing legal and legislative changes; and
- bringing about institutional reforms, including drawing up new constitutions, before going for free and fair elections the results of which have to be officially certified by the AU.

In practice however, the implementation of the AU methodology and mechanism has gone further. In the case of the recent return of conflict in the Sudan, the AU – through its Peace and Security department – has compelled the two states to reach an agreement within 90 days or face continental and international sanctions. This unprecedented action by Addis Ababa has shocked the member states and compelled not only the UNSC but also furtive global powers, waiting in the wings as spoilers or tacit supporters of a particular side in the conflict, to toe the line and fall behind the AU position. To this end, the AU has secured a unanimous UNSC Resolution on the Sudan. In Libya, bereft of a sub-regional partner and with the international community working through an Arab League

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resolution, the AU became marginalised and excluded and was unable to impose itself as part of the conflict management players. Meanwhile, in Madagascar, working with an assertive sub-regional player, SADC, the AU 'owns' the process. It was able to fend off the 'recognition' by France, and even Turkey and Pakistan, of the faction of Andry Rajoelina, before humiliating the same in New York, during the September 2009 General Assembly Session when he tried to take the podium. This was denied at the last minute following the robust intervention of Angola on behalf of the SADC-AU Road Map. Within Madagascar, sanctions on the 100 members of HAT and Rajoelina and the obvious economic slump have forced parliament, the private sector and the now desperate civil servants to abandon their reluctance and begin implementing the SADC-AU Road Map to democracy. In Madagascar, the combination of the AU methodology and an equally assertive sub-regional body, SADC, looks like it is going to get the parties to the fountain of reconciliation, adopt the norms and standards of democratisation and achieve a long-term and permanent peace.

A major achievement for the AU has also been the rejection of the Malian rebels – the Touaregs and Salafists, coming from Libya, well armed beyond the capacity of the local forces – who had captured and invested almost 80% of the country and declared large swathes independent and now part of the new state of Azawad. While the government was fighting off a military coup in Bamako, it was only the AU's explicit and immediate rejection of the balkanisation of Mali that stopped a number of countries and actors in the shadows that were on the verge of recognising the fast moving rebel movement. This has not been confronted by the local, disintegrating army to date. However, the point has remained valid, and the AU's call has been honoured, forcing the militarily strong Touaregs to consider entering into a dialogue. This represents the epitome and triumph of the AU intervention in African conflict resolution.

However, while the AU has fashioned an instrument that has international credibility and integrity, the danger is that this is led by officials who may or may not be around or at the helm for long. For example, the AU Commissioner, Dr Jean Ping, has had his ability to function seriously curtailed when he failed to win re-election during the January Summit when challenged by South African Dr. Nkosazana Dlamini-Zuma, a candidate put forward by SADC, a region

seeking to occupy the top seat for the first time. Hence, the good work of the Peace and Security Commissioner, Ambassador Ramtane Lamamra, is threatened by the organisational hierarchical changes. Apart from this paper raising awareness of the developing and evolving trends, it also has provided a sense of which countries may or may not be part of the Fourth Wave of Democratisation, given the absence of predictable and sustainable democratic institutions in a number of African countries that must be now on the watch-list of those interested in the larger stabilisation of the African democratic agenda.

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ACCORD House • 2 Golf Course Drive • Mount Edgecombe 4300 • RSA  
Private Bag X018 • Umhlanga Rocks 4320 • South Africa

Tel +27 (0)31 502 3908 Fax +27 (0)31 502 4160  
email [info@accord.org.za](mailto:info@accord.org.za) Website <http://www.accord.org.za>